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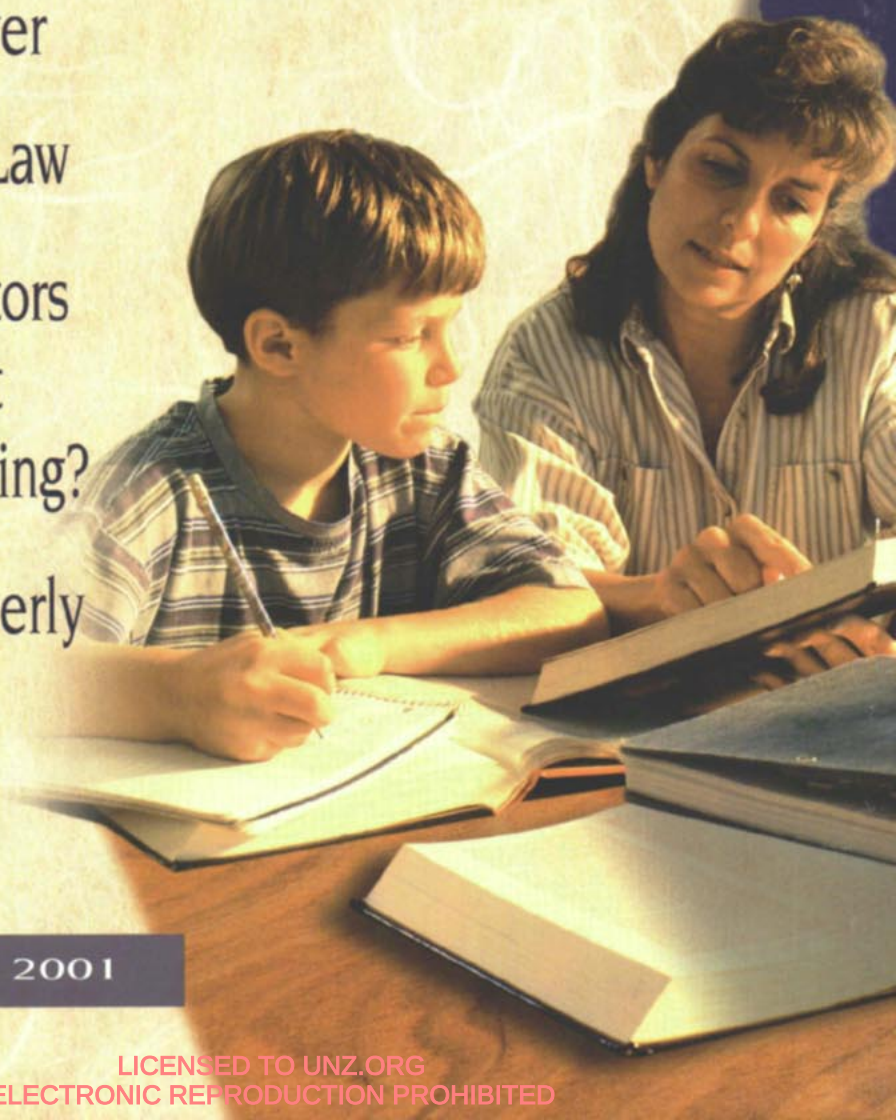
- Parent Power
- Spencer's Law
- Do Regulators Know What They're Doing?
- Ward Connerly on Losing the Race



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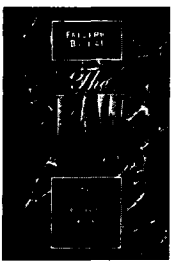

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IDEAS ON LIBERTY

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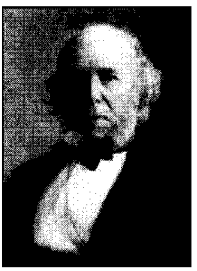
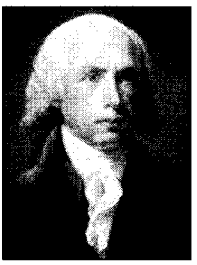


Herbert Spencer



James Madison

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PERSPECTIVE

Prosperity Through Inequality

Economics may be seen as the rendering of the counterintuitive obvious. At least that's what good economists do. I came across a good example recently while reading F. A. Hayek's lecture "The Origins and Effects of Our Morals: A Problem for Science," which is reprinted in his book *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (1978).

In one brief section Hayek points out that the socialists wish to substitute a new morality for the one that underpins the market order because they are dissatisfied with a moral code that does not give each person "what he deserves in light of his perceived merits or needs." In the few paragraphs that follow, Hayek brilliantly shows what the socialists have never understood: that private property and inequality in rewards make all people richer than they would be otherwise.

The root of the misunderstanding is the belief that it's unimportant how wealth got here and that all we have to do is figure out how to distribute it. Hayek quotes John Stuart Mill (author of "The silliest sentence ever penned by a famous economist . . . an incredible stupidity"): "once the product is there, mankind, individually or collectively, can do with it whatever it pleases." In a trivial sense Mill was right. The critical question is: will the product be replenished regardless of the manner of distribution?

Hayek disposes of the matter by arguing that "a process which tells us how to reward the several contributions to this product is also the indispensable source of information for the individuals, telling them where they can make the aggregate product as large as possible. It is the relative [remuneration] of all the different factors of production by the market which alone can show us how we must arrange them to make the product as large as we can."

In other words, if we want the greatest array of wealth possible, producers will need signals indicating how they can best satisfy consumers. Those signals are prices. But the same

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system that generates prices also generates unequal incomes.

Thus inequality of incomes promotes human well-being. Private property, Hayek wrote, "in the means of production is . . . an indispensable condition for the existence of this product in anything like its present condition. Socialists offer us as a superior moral [sic] what is, in fact, a very inferior morality, yet alluring because they promise great pleasure or enjoyment to people they would be unable to feed."

* * *

Adam Smith said, "There is much ruin in a nation." But the news media lead one to believe that's *all* there is. Stephen Davies enlists the grand old liberal Herbert Spencer to explain why disaster is nearly all we hear about.

What happens when a bureaucrat is actually called on publicly to defend a set of proposed regulations? You'd be surprised. James Payne relates a firsthand experience.

Countries emerging from the long night of socialism could do no better than to look to one of America's Founding Fathers for political and economic guidance. James Dorn describes one of the most influential men in history.

You can tell much about a country from whether rewards are allocated according to status or achievement. Thomas Wilson discusses the importance of this distinction.

Theoretically, governments were instituted to avert conflict. Yet they seem to spend most of their time instigating it. Nicholas Kyriazi takes a look at this side of the state.

The reasons for separating church and state are well known. What is not so well known is that they are identical to those for separating *school* and state. Barry Loberfeld demonstrates.

China apparently subscribes to the view that economic liberalization can only be purchased at the cost of political authoritarianism. Even some Westerners buy it. Christopher Lingle, however, does not.

Risk is a part of life, yet much of what government promises to do is diminish risk. Christopher Mayer points out that the Law of Unintended Consequences always has the last laugh.

When a student asked his teacher why immigrants tend to own stores in the inner cities, he got an important economics lesson. Richard Marcus was there.

If foreign aid improved economic conditions, Africa would today be a haven for investment and high incomes. What went wrong? Jim Peron counts the ways.

In Canada the government is allowed to open mail without a warrant. But don't worry; it's just to combat crime. Adam Young is worried anyway.

Here's what our columnists found to write about this month: Donald Boudreaux reminds us of the importance of reading history. Lawrence Reed has no faith in President Bush's plan to subsidize religious social-welfare organizations. Doug Bandow stamps the monopoly post office. Dwight Lee says command-and-control is no way to reduce pollution. Mark Skousen pens a paean to Hayek. Charles Baird reports on attempts to unionize temporary workers. And Joseph Salerno, reading two Nobel laureates' argument for *not* cutting taxes, protests, "It Just Ain't So!"

The book reviewers ponder volumes on work and home, health care, privacy, race, higher education, and the telephone for the hearing impaired.

—SHELDON RICHMAN

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Thoughts on Freedom

by Donald J. Boudreaux

On Reading History

Economics is the discipline that I loved first and that I continue to love above all. The economic way of thinking—as the late Paul Heyne called it—is a potent solvent for cutting through the nonsense and irrelevancies that typically loom large in policy discussions. No one lacking a solid grasp of economic principles can understand social reality well enough to offer sensible opinions on policies. This grasp of economic principles might be formally learned (as it was for me), or it might be acquired along life's way through experience, reflection, and careful observation—but it is certainly necessary. Anyone without it is far too likely to speak baloney when discussing public policies.

But economics is not sufficient for sound thinking about the social world. History, more than any other discipline, is a necessary complement to economics. By detailing the human past, history gives perspective and supplies wisdom about human potential and limits.

One of my all-time favorite history books is Fernand Braudel's *The Structures of Everyday Life* (1981). In this work, Braudel documents the appalling poverty that marked the life of nearly every European prior to the industrial revolution. Our European ancestors of just a few generations ago were filthy, starving, disease-ridden, ignorant, and superstitious slaves to the soil. It was only after commerce and industry burst forth in the eighteenth century—and only *where* commerce and industry burst forth—that the world as we know it today began to take shape. Those who romanticize our pre-industrial past ought to read Braudel.

Another favorite history book of mine is Will Durant's *The Life of Greece* (1939). Throughout this book, Durant makes clear that the unprecedented culture, liberty, and prosperity of ancient Greece grew from commerce and trade. First in Crete, later in Miletus and, most spectacularly, in Athens, ancient Greek achievements go hand in hand with commerce. Discussing fifth-century B.C. Athens—the century of Pericles, Socrates, Aeschylus, Sophocles, Euripides, Aristophanes, Herodotus, Thucydides, and the construction of the Parthenon—Durant says that

> Greek states have learned the advantages of an international division of labor. . . . In one century Athens moves from household economy—wherein each household makes nearly all that it needs—to urban economy—wherein each town makes nearly all that it needs—to international economy. . . .
>
> [I]t is this trade that makes Athens rich, and provides . . . the sinews of her cultural development. The merchants who accompany their goods to all quarters of the Mediterranean come back with changed perspective, and alert and open minds; they bring new ideas and ways, break down ancient taboos and sloth, and replace the familial conservatism of a rural aristocracy

Donald Boudreaux is chairman of the economics department at George Mason University and former president of FEE.

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with the individualistic and progressive spirit of a mercantile civilization. . . . In the end it created a commercial empire whose thriving interchange of goods, arts, ways, and thoughts made possible the complex culture of Greece.

The economist understands part of the reason why this is so. Trade promotes specialization, which promotes wealth, which makes possible leisure as well as philosophical, scientific, and artistic endeavors. But the historian grasps another vital part of the explanation of why trade promotes cultural advancement. Here's Durant again: "The crossroads of trade are the meeting place of ideas, the attrition ground of rival customs and beliefs; diversities beget conflict, comparison, thought; superstitions cancel one another and reason begins."

And reason begins! Reason itself is the product of trade. If this proposition is true—and the evidence supporting it is gargantuan—it follows that to oppose trade is not only to oppose people's freedom to spend their money as they see fit. It is also to do nothing less than to oppose reason. And to oppose reason is truly to advocate barbarism. In Durant's words, for citizens of ancient Greece "a barbarian was a man content to believe without reason and to live without liberty."

It's easy to know what the ancient Greeks would think of today's self-described "progressive" opponents of trade. These anti-traders do not understand the enormous debt that they owe to trade. They do not understand just how many of the very sensibilities that spark them to oppose trade exist only because of trade.

This fact holds for that most patent modern sensibility: affection for nature. Our appreciation today for beautiful vistas, wildlife, and time spent with nature is almost exclusively the result of trade.

Consider, for example, what the incomparable Thomas Babington Macaulay wrote, in his *History of England*, about the nineteenth-century Englishman's deep affection for the beauty of the Scottish Highlands. Macaulay informed his English contemporaries that their affection for the Highlands was new. It emerged only after commerce and civilization tamed the Highlands and made them accessible to civilized people.

> Indeed, law and police, trade and industry, have done far more than people of romantic dispositions will readily admit, to develop in our minds a sense of the wilder beauties of nature. A traveller must be freed from all apprehension of being murdered or starved before he can be charmed by the bold outlines and rich tints of the hills. He is not likely to be thrown into ecstasies by the abruptness of a precipice from which he is in imminent danger of falling two thousand feet perpendicular; by the boiling waves of a torrent which suddenly whirls away his baggage and forces him to run for his life; by the gloomy grandeur of a pass where he finds a corpse which marauders have just stripped and mangled; or by the screams of those eagles whose next meal may probably be on his own eyes. . . .
>
> It was not till roads had been cut out of the rocks, till bridges had been flung over the courses of the rivulets, till inns had succeeded to dens of robbers . . . that strangers could be enchanted by the blue dimples of lakes and by the rainbows which overhung the waterfalls, and could derive a solemn pleasure even from the clouds and tempests which lowered on the mountain tops.

An unmistakable lesson from a study of the past is that wealth, peace, security, culture, civilization, appreciation for nature, and even reason and knowledge develop from trade. Trade is the great civilizer. History, along with economics, tells us that those who would prevent or restrict trade are truly barbaric. □

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IDEAS ON LIBERTY
AUGUST 2001

Tax Cuts Cause Trade Deficits and Currency Depreciation?

It Just Ain't So!

In a recent *New York Times* opinion piece Franco Modigliani and Robert M. Solow, Nobel Prize-winning economists, weighed in with yet another leftist objection to President Bush's tax cut. The gist of their criticism is that such a "massive, permanent tax cut" will worsen the international economic position of the United States, leading to a vicious cycle of capital flight and depreciation of the dollar. Their argument is based on long-discredited orthodox Keynesian doctrines prevailing in the 1950s and 1960s. The first part of the argument asserts a direct causal connection between the growth of foreign capital invested in a country and the likelihood of currency depreciation. The second part links a reduction in tax rates with a deficit in the nation's foreign trade balance accompanied by a rise in foreign indebtedness.

During the 1990s Americans increasingly purchased more goods and services from, than they sold to, foreigners. They financed this persistent "current account deficit" by borrowing from foreign lenders and selling assets, like shares of corporate stock and U.S. government bonds, to foreign investors. According to Modigliani and Solow, as this trend continues and persistent U.S. current-account deficits lead to mounting international indebtedness, foreign creditors may eventually refuse to go on financing the ballooning debt, fearing a depreciation of the dollar on foreign exchange markets that would reduce the earnings and capital value of their assets in terms of their domestic currencies.

The very expectation of dollar depreciation could very well spur a "capital flight," as panicked foreign investors seek to protect their capital by selling off their dollar-denominated assets. The ensuing scramble to convert the dollar proceeds from these asset sales into foreign currencies would precipitate the depreciation, igniting fears of further depreciation and intensifying the flight from the dollar.

As this self-reinforcing process continues and foreign currencies become increasingly expensive in dollar terms, the United States would suffer a stratospheric rise in the prices of imports and of domestic products that use imported inputs. The authors solemnly warn that "if nothing is done to change the current course," the process may thus culminate in a runaway domestic wage-and-price spiral that can only be suppressed by "higher interest rates," that is, a tighter monetary policy, that creates a "hard-landing scenario" for the economy.

The fundamental error stems from the authors' unreconstructed 1950s Keynesianism, which almost completely ignores the driving force of money on the overall economy and particularly on the balance of payments and the exchange rate. Thus there is no reference by the authors to the crucial role of money in fueling any prolonged depreciation process. As Ludwig von Mises first demonstrated in 1912, the fundamental determinant of the exchange rate between two currencies is their relative purchasing powers. For example if the price of a standard personal computer is 100,000 yen in Japan and 1,000 dollars in the United States, then the yen-dollar exchange rate will be driven by the market to 100 yen per dollar.

At this rate, the holder of dollars would pay the same price for a personal computer whether he purchased it here or in Japan. If the Fed inflates the supply of dollars, all other things equal, it creates an excess supply of money and excess demand for personal computers and other consumer goods in the U.S. market, thereby raising overall prices and

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lowering the purchasing power of the dollar. As a result, at the prevailing exchange rate, it will be cheaper to purchase computers and other goods in Japan than in the United States and the demand for yen will increase relative to the demand for the dollar, causing the dollar to permanently lose value, or "depreciate," against the yen as well as other foreign currencies that have not been inflated.

Conversely, in the absence of a change in the purchasing power of the dollar vis-à-vis foreign currencies, Mises's "purchasing power parity theory" implies that any change in the exchange rate will be strictly temporary and self-reversing.

Powerful Market Forces

Contrary to the authors, a net withdrawal of foreign investment funds from the United States therefore cannot bring about a progressive depreciation of the dollar. Thus if foreign investors begin to question the creditworthiness of U.S. debtors or decide to diversify out of dollar investments, this would cause an increase in the supply of dollars offered against the currencies of those nations that are the destination of the capital transfers, temporarily driving down the value of the dollar in terms of these currencies. However, when the transfer process is completed, powerful market forces will quickly drive exchange rates to their long-run equilibrium levels, thus restoring purchasing power parity between the dollar and foreign currencies.

It is true that international capital disinvestment will entail a rise in interest rates in the United States, but it will not cause a long-run—let alone a progressive—decline in the external value of the dollar *unless the Fed attempts to offset the increase in interest rates by inflating the money supply.*

Modigliani and Solow's attempt to link tax-cutting to their dreaded "hard-landing scenario" is also based on outmoded Keynesian doctrine—in this case the "absorption approach," which almost completely abstracts from the fundamentally monetary nature of the foreign-payments balance and the exchange rate. According to this approach, America's excess of imports implies that it is inexplicably "absorbing" more goods and services than it is currently producing and, therefore, that its total spending on goods and services is greater than its current income. The United States can only finance this excess absorption by increasing its indebtedness to foreigners.

But Modigliani and Solow contend that a tax cut will raise consumption spending almost dollar for dollar, promoting even greater over-absorption, deficits, and foreign indebtedness. Moreover, since this increased consumption spending will likely be occurring in a full-employment economy, it will unleash "inflationary pressures" that will induce the Fed to increase interest rates, thereby reducing investment. Thus, they conclude, the only effect of the Bush tax cut will be "a further expansion of the recent spending spree" on consumption financed by foreign debt and diminished domestic investment.

This part of the argument can be easily disposed of with two considerations. First, even if Americans spend their tax cuts entirely on consumption, there will be no price inflation, for the funds would be spent by the government, the recipients of its transfers, or the owners of redeemed bonds in any case.

Second, the assumption that the tax cut will lead to a dollar-for-dollar increase in consumption is itself erroneous. The tax cut will immediately increase Americans' current real incomes, lowering the marginal satisfaction from present consumption relative to that of future consumption and inducing them to save and invest a greater proportion of their current incomes in order to increase future consumption. The increased saving will lower interest rates here and reduce or even reverse the net inflows of foreign capital, lessening the accompanying current-account deficits or transforming them into surpluses.

Thus the authors are wrong on all counts. □

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Spencer's Law: Another Reason Not to Worry

by Stephen Davies

One of the constant themes of today's media is crisis and panic. Everywhere we look we are told there is some dreadful social problem, a threat to all that is good and true. Moreover, it is getting worse and will bring disaster upon all of us—unless "we do something." (The authors of these jeremiads always have well worked-out ideas as to what "we" should do.) Most of the current favorites in this genre relate to children (going to the dogs), the state of the natural environment (we're doomed), or the condition of the popular culture (uniquely degraded). There are, however, many others. These kinds of accounts come from all parts of the political spectrum and seem to have a great appeal to both publishers and readers. Truly, life seems grim.

And yet my advice is (to quote the late Douglas Adams's *Hitchhiker's Guide to the Galaxy*), "Don't Panic!" You should, in fact, take all such accounts with a very large pinch of salt: not only because they frequently contain elementary errors of fact, logic, and argument, but also for a more profound reason. Not only is it likely that in many or most cases there is no problem (or much less of one than the prophets of doom would have us believe)—in most instances the "problem" is diminishing and is actually on the way to disappearing. The accounts of social crisis that bombard us from every corner are examples of a principle I propose to call "Spencer's Law," after the man who first formulated it, the great Victorian philosopher and sociologist Herbert Spencer.

Spencer's Law states, "The degree of public concern and anxiety about a social problem or phenomenon varies inversely as to its real or actual incidence." In plain English this means that when a social problem is genuinely widespread and severe it will attract little notice or discussion. It will only become the object of attention, concern, and controversy precisely when it is in decline and its severity is diminishing. So the less of a problem there is, the more that is written about it! Spencer made this point on several occasions, perhaps most pointedly toward the end of his life in his essay of 1891 "From Freedom to Bondage," remarking on "the way the more things improve the louder become the exclamations about their badness."[1] The point of course is that complaints about social problems that are actually on the way out have a long history. In the work cited and elsewhere Spencer gives several examples:

Drink. In the early nineteenth century Britain suffered from a truly horrendous drink problem. Alcohol abuse was commonplace and a major cause of ill health and crime. By the 1880s consumption of alcohol had declined sharply and there had been a marked shift from hard liquor to beer. However, it was the years after 1880 that saw an upsurge in

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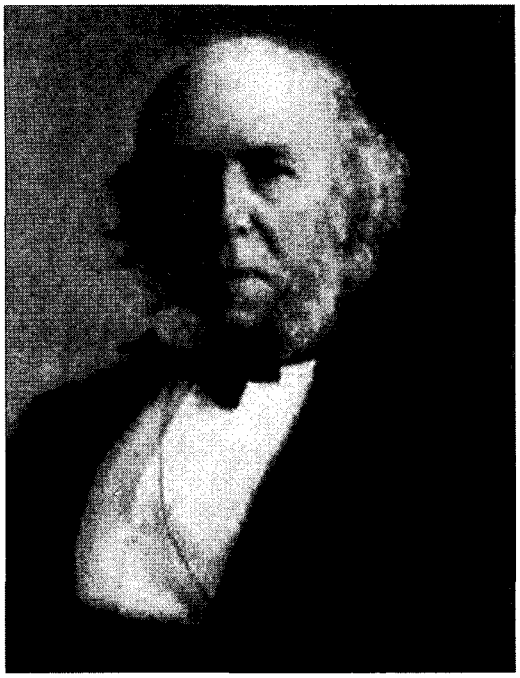

The Warren J. Samuels Portrait Collection at Duke University

Herbert Spencer (1820–1903)

temperance campaigns in both Britain and the United States, culminating in the "noble experiment" of Prohibition in the United States and restrictive licensing laws in Britain.

Education. In the late eighteenth century illiteracy was frequent and innumeracy and ignorance were so common that they attracted no attention. By the 1860s the huge majority of British were literate and numerate and there was strong demand for popular educational materials.[2] The later nineteenth century saw a campaign against the "public ignorance," which led to the establishment of compulsory state education at the primary (1870) and secondary (1902) levels.

Poverty. By every single indicator (such as average income, cost of living, conditions of life, number on poor relief) the condition of working people in Britain was far better in 1870 than it had been in 1840. This was well known, as shown in the statistical works produced at that time, such as Porter's *State of the Nation*. It was the years after 1870 that saw the "discovery of poverty" through the works of men like Rowntree and Booth and the growth of an intellectual and political movement that led to the creation of the welfare state in Britain.

The status and treatment of women and children. Spencer pointed out on several occasions that women and children enjoyed more rights and were better treated in the nineteenth century than at any other time in history. Yet the years after 1850 saw the growth of feminism and the appearance of the first campaigns against child labor and cruelty to children.

More Cases

To Spencer's examples we can add:

Pollution and the state of the environment. Contrary to popular belief pollution is steadily declining and the quality of the environment has improved since 1900.[3]

Poverty. This is less of a problem for much of the world than at any time in history, and the long-term trend is for absolute poverty to decline everywhere. In fact, all indicators of human well-being show a steady rise over the last hundred years.

So how do we explain Spencer's Law? Why do we become exercised by social problems precisely when they are in decline or much diminished? One reason is lack of historical perspective—most people do not know of the comparison between the present and the past and so are unaware of the trend. They only see the problems today without realizing how much worse it was in the past.

Second, there is a problem of perception. When a phenomenon such as poverty, child labor, or mistreatment of women is widespread, it is not noticed, but simply taken for granted as part of "the way things are." When, however, such phenomena become rare or exceptional they stand out more by contrast and so attract attention. As the problem becomes less commonplace, attitudes change from (at best) resigned acceptance to outraged rejection. Finally, there is a basic fact of human psychology: Bad news sells while good news does not; gloomy pessimism seems to have an appeal lacking in sunny optimism.

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This explains why accounts that present a declining problem as acute and worsening are believed or found plausible. However, they do not fully explain why such accounts are produced in the first place. In addition to the above factors, two others come into play. First, people who are concerned about a problem or issue and want to do something about it now realize that they have to present their message in a certain way if it is to have any impact. "Situation improving, a bit more needed" does not excite in the way that "situation desperate—urgent attention required" does.

Also, such accounts often have a specific agenda. In contrast to Spencer's time, when many social activists called primarily for self-improvement and private (non-state) action, such as philanthropy or mutual aid, modern campaigns typically call for an increase in the power of government. Instead of arguing that processes such as economic growth, which reduce social problems, should be allowed to take their course or be encouraged, or calling for action by individuals or voluntary cooperation, they advocate some kind of collective action via politics; that is, through legislation and the state. The evidence suggests that this will be at best ineffective, at worse counter-productive. However, in many cases the "problem" is being used as an excuse for advocating something that is wanted for other, philosophical reasons. Experience has taught advocates of power that to openly advocate increasing the size of government is to court defeat. Much easier to describe a "terrible problem" and argue that government action is the only solution.

That is the final lesson to draw from this. In all the examples of Spencer's Law there is a common feature. These are all cases where things are improving without resort to planned, collective action. In Spencer's own time living conditions were improving, levels of education were rising, and the problem of drink was diminishing, as a result of orderly yet unplanned social processes. These desirable trends were the unplanned outcome of many millions of actions and decisions made by individuals. Even where there was conscious action (as in the case of charities or mutual aid) it was piecemeal, localized, and diffuse. Many people, then and now, simply find it difficult to accept that improvement or social reform can come about except by conscious, collective action, by using power to direct people's affairs.

Does this mean we should simply sit back, believing like Doctor Pangloss that "All is for the best in the best of all possible worlds"? Not at all. In the first place we should all be looking to do what we can to make matters better in our own sphere, by practicing the virtues of personal responsibility.

Second, there *is* a role for public policy. The benevolent trends identified by Spencer and contemporary authors such as Stephen Moore and the late Julian Simon can only exist and continue in the right institutional framework.[4] Get the "rules of the game" wrong and all that improvement will stop or go into reverse. The irony, as Spencer pointed out, is that when government grows in response to panics and jeremiads, that is usually just what happens. The growth of state action in response to misleading panics is often self-defeating. Frequently, the outcome is to actually diminish or even reverse the previous beneficent trend. This can be seen most clearly in education, where the rise of state schooling has brought about a decline in general knowledge, literacy, and capacity for critical reasoning. Similarly, controls on the sale of alcohol actually made drinking problems worse.

The role of law and government should be to create the right conditions for human ingenuity and good-spiritedness to do its work. □

1. Herbert Spencer, *The Man Versus the State, With Six Essays on Government, Society, and Freedom* (Indianapolis: Liberty Press, 1981), p. 487.

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3. Julian L. Simon, *The Ultimate Resource 2* (Princeton N.J.: Princeton University Press, 1996), pp. 335–40.

4. Julian L. Simon and Stephen Moore, *It's Getting Better All the Time: 100 Greatest Trends of the Last 100 Years* (Washington, D.C.: Cato Institute, 2000) and Julian L. Simon, ed., *The State of Humanity* (Oxford: Blackwell, 1996).

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IDEAS ON LIBERTY
AUGUST 2001

Do Regulators Know What They're Doing?

by James L. Payne

Society gives great power to the regulators who set standards for the rest of us, but—strangely—it does not set standards for the regulators themselves. The laws that establish regulatory systems do not require that those who write regulations on health, safety, commerce, transportation, and so on have any definite ability or qualifications. Prospective regulators do not have to pass IQ tests. They do not have to demonstrate that they have analytical minds. They do not have to prove that they have a command of any important body of medicine, science, or engineering. They do not have to demonstrate proficiency in cost-benefit analysis. In most cases, you become a regulation-writer simply by walking off the street and getting a job in a bureaucracy. Fire codes, plumbing codes, electrical codes, building codes, zoning codes, health and safety codes: these regulations are, in almost all cases, drawn up by ordinary people who are guided by little more than their own opinions and prevailing prejudice.

We recently had a case of regulation writing here in northern Idaho that illustrates how shallow this process of rule-making can be. Last summer an "Environmental Specialist" of the Panhandle Health District announced new proposed regulations for daycare establishments. The aim, Mrs. Jean Hughes told the local newspaper, was to "catch a lot of the smaller daycare centers" and bring them under the jurisdiction of her office. The new rules would require those who care for as few as two children to be licensed. To make sure daycare providers were doing the right thing, Mrs. Hughes drafted 15 pages of regulations, which contained over 680 requirements, covering everything from posting an "emergency evacuation plan" to keeping hot foods above 145 degrees.

According to Mrs. Hughes, these regulations were just the beginning, the "foundation" of a still more comprehensive plan of daycare regulation incorporating the wish lists of "child care advocates." What made the prospect of this regulatory empire so disturbing was that it appeared to have no basis in science, medicine, or economics. To confirm this suspicion, I went to the Health District and requested a copy of the justification for the regulations. I was told that there was no such document. So I wrote Mrs. Hughes, challenging her to provide the rationale for her regulations. She did not reply.

To motivate a response, I made my letter public by having it published in the local newspaper. It ran as follows:

> Dear Mrs. Hughes:
>
> I'm sorry you are not responding to my requests for information about the new daycare regulations you are elaborating on behalf of the State of Idaho. Since these regulations will have the force of law, and will be backed by police power, it seems to me you have an obligation to be forthcoming about your rationale for imposing them.

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Thus far, your office has produced only the proposed regulations, and not one word of justification. Here are some of the questions you need to answer:

1. How many of these "micro" daycare establishments that you propose to regulate are there? How many children are in these establishments? (This data is obviously a prerequisite for gauging any effects of regulation.)
2. What has been the illness/injury rate of children in the unregulated micro daycare establishments compared to the illness/injury rate of children in regulated daycare? (In other words, how do you know the regulation is necessary?)
3. What scientific evidence exists to show that any of the proposed regulations would actually lower the illness/injury rate in daycare establishments? (For example, is there a scientific study that shows that if a daycare's hot water has a temperature of, say, 75 degrees—10 degrees less than the proposed regulation—there is more illness in that establishment?)
4. What will be the cost to daycare operators of implementing the proposed regulations?
5. What will be the effect of the increase in costs and red tape on (a) daycare costs to parents and (b) closure of daycare establishments, and hence the supply of day care?
6. To what extent will the regulation and forced closure of micro daycare establishments result in a decline in loving environments for children?

Rational regulation would require clear, documented answers to all of the above questions. Otherwise, you run the risk of implementing regulations that do nothing to enhance the safety, health, or happiness of children in day care, while adding to costs, adding to taxes, and taking away freedom.

I eagerly await your answers.

Sincerely yours,
James L. Payne

There's not much more to tell. The public embarrassment finally motivated Mrs. Hughes to send me a letter. Not surprisingly, it was a brief, evasive reply that ignored all my questions. In an abrupt reversal, she denied that she had any intention to put forth daycare regulations. All she was doing, she said, was "gathering information and input from the public on what the perceived needs and requested areas of enhanced regulations are." In other words, simply demanding that a regulator give sound scientific and economic justifications for her regulations caused her to tear them up and pretend they never existed!

Next time you see a fire code, or a sanitary code, or a building code, take a closer look. You will see requirements not backed by scientific research and which have not passed any objective test that demonstrates that they do more good than harm. They merely reflect the opinions of the people who wrote them. Sadly, no one stopped to ask them if they knew what they were doing. □

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IDEAS ON LIBERTY
AUGUST 2001

Public Money for Private Charity

When President Bush announced his controversial "faith-based initiative" last February, it brought to mind something I learned years ago from readings on ancient Roman history.

After years of being shunned and even persecuted, Christians suddenly enjoyed the official blessing of the Roman state when Emperor Constantine came to power in 324 A.D. For the first time, imperial funds were used to subsidize priests and churches. Christians emerged from hiding in Rome's catacombs to partake of the state's largess. A faith that might have saved an empire was thus corrupted and in the end proved to be a futile safeguard against Rome's ultimate destruction at the hands of barbarians a century and a half later.

Indeed, before the barbarians arrived in 476, Emperor Julian launched a backlash against state-supported Christian influence in 361. He crippled the church by withdrawing the financial aid on which it had become dependent, and even forbade Christians from teaching in the schools. Because the Roman state was paying the Christian piper, it eventually called most of the tunes.

For the sake of both their faith and Roman society at large, the Christians of the fourth century should have remained pure and independent—advice expressed well 13 centuries later by the English poet John Dryden: "better shun the bait than struggle in the snare."

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President Bush is right to recognize the fruitful role of America's private, faith-based "armies of compassion." For many reasons, such groups are far more effective in solving social problems—poverty, homelessness, illiteracy, to name a few—than are government programs and bureaucracies. They treat the whole person, which means they get to the root of problems that stem from spiritual, attitudinal, and behavioral deficiencies. They demand accountability, which means they don't simply hand over a check every two weeks without expecting the needy to do much in return or to change destructive patterns of behavior. And if they don't produce results, they wither; the parishioners or others who voluntarily support them will put their mites elsewhere.

When a government program fails to perform, its lobbyists make a case for more money and they usually get it. Literally tens of thousands of faith-based organizations, large and small, that demonstrate every day in America what management expert Peter Drucker once said of nonprofit agencies in the private sector: They "spend far less for results than governments spend for failure."

In a single pithy question, John Fund of the *Wall Street Journal* underscored the instinctive, gut-level regard that Americans have for private aid, no matter what they may say in public: "If you had a financial windfall and wanted to help the poor, would you even think about giving time or a check to the government?" Millions of Americans give to the Red Cross and the Salvation Army;

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almost nobody writes checks to the welfare department.

President Bush's initiative would "pioneer a new model of cooperation," in part through federal contracts with faith-based groups to provide a wide range of social services. The problem with it is not, as some critics argue, that it puts faith in a position to corrupt the government. All the ingredients necessary for corruption in government are already there: vast sums of other people's money and far more power than any government should ever have.

Government Corrupts

The real problem with the President's initiative is the same as was manifested painfully in ancient Rome—*government will be in a position to corrupt faith.* The fact that the modern American state is relentlessly secular is one reason, but not the primary one. Resting as it does on the compulsory tax power, government funding of any kind, by its nature, is at odds with the very thing that makes private faith-based programs work: *impulses that are entirely voluntary and inner-motivated.*

From start to finish, what private charities do is a manifestation of free will. No one is compelled to provide assistance. No one is coerced to pay for it. No one is required to accept it. All parties come together of their own individual volition. And that's the magic of it. The link connecting the giver, the provider, and the receiver is strong precisely because each knows he can walk away at the slightest hint of insincerity, broken promises, or poor performance. Because each party is giving of his own time or resources voluntarily, he tends to focus on the mission at hand and doesn't get bogged down or diverted by distant or secondary agendas, like filling out the proper paperwork or currying favor with the political powers that be.

Most people of faith—whether they be Christian, Jew, Muslim, or something else—would ordinarily be the first to argue that God doesn't need federal funds to do His work; just a change of heart will do, one heart at a time. Sadly, there are more than a few people of faith who have succumbed to temptation and are arguing that their organizations now must take advantage of the Bush proposal or else precious lives will not be turned around. That the mere offer of future funding is enough to turn some eyes to Washington that previously were aimed somewhat higher suggests a subtle corruption of faith has already begun.

The administration argues that it will scrupulously avoid any direct support of actual religious activities. It will fund the bed a homeless person sleeps in, not the Bible his Salvation Army mentor reads to him. But as government and private funds flow into the same pot, it may be very hard to follow what flows out of it and for what purpose, without a smothering paper burden to guarantee what the politicians call "accountability."

In Michigan, the Salvation Army accepts tax money to supplement the private donations it collects for taking care of the homeless. In 1995, the city of Detroit imposed a 25-page ordinance to make sure that shelters like those run by the Army are up to snuff. It requires, among other things, that all staffers be trained in resident complaint and grievance procedures and that all meal menus be approved by a dietitian registered with the American Dietetic Association—"minor" diversions from the spiritual mission of the Army, but all intended "for the public good," to be sure.

Advocates for the Bush proposal argue that this administration's people in government will not burden faith-based charities with that kind of do-gooder bureaucratic rigmarole. But its people will not always be there. Those Romans who thought they had a friend in Constantine were undoubtedly more than a little upset with Julian. □

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IDEAS ON LIBERTY
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The Rule of Law and Freedom in Emerging Democracies: A Madisonian Perspective

by James A. Dorn

The collapse of communism in 1989 in Eastern and Central Europe, and the fall of the Soviet Union two years later, have increased the number of democracies in the world to a total of 120. Of those, however, only 85 are classified as "free" by Freedom House—a stark reminder that creating a free society requires limiting government. That in turn requires limiting majority rule and protecting property rights.

Emerging democracies can learn from James Madison's constitutional vision: The danger is that without limited constitutional government, electoral democracies (with universal suffrage) will undermine what F. A. Hayek called the "constitution of liberty." Individual rights will then lose ground to special interests, and civil society will be weakened as all aspects of life become politicized. Instead of becoming less visible, the state will become more powerful.

For Madison, "The essence of government is power; and power, lodged as it must be in human hands, will ever be liable to abuse." The fundamental question that concerned Madison, and the other framers of the U.S. Constitution, was how to prevent the abuse of governmental power while protecting individual rights to life, liberty, and property.

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Madison's goal was to create a basis and structure of government that would protect persons and property and stand the test of time. His goal was justice under the law of liberty.

Madison regarded it as self-evident "that persons and property are the two great subjects on which Governments are to act; and that the rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted."

In Madison's view, justice, liberty, and property are inseparable: "That alone is a *just* government," wrote Madison, "which *impartially* secures to every man, whatever is his *own*." Like Hayek, Madison viewed justice as "rules of just conduct," not as some officially sanctioned distribution of income that satisfies some subjective criterion of "social justice."

Madison accepted Adam Smith's distinction between perfect and imperfect rights, where "perfect rights" are associated with consent and commutative justice, while "imperfect rights" are associated with force and distributive justice. Imperfect rights, such as the "right to welfare," are rights only in a "metaphorical sense": they cannot be exercised without violating someone's property rights.

True justice requires the protection of property rights, not the promotion of the welfare

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state. No one has the right to be compassionate with other people's money.

Madison adhered to the classical-liberal view of democracy, which is consistent with limited government and the rule of law, rather than to the modern liberal view in which democratic government is virtually unlimited. In 1837, a year after Madison's death, John O'Sullivan, the political editor of *The Democratic Review,* wrote: "The fundamental principle of the philosophy of democracy" is "to furnish a system of the administration of justice [in the Madisonian sense], and then leave all the business and interests of society to themselves, to free competition and association, in a word, to the *voluntary principle"*—that is, to the *"principle of freedom."*

That view of democracy clashes with the welfare state and its open-ended vision of democratic government. Today, in both emerging and mature democracies, the rule of law and freedom have been sacrificed to majoritarian politics—a danger Madison warned against.

Just Government and Spontaneous Order

Madison supported limited government not only because he thought it was just but because he recognized, as did Adam Smith, that limiting government to the defense of persons and property prevents corruption and lays the basis for the emergence of a spontaneous market order and wealth creation.

Madison favored free trade and opposed government intervention. He called himself a "friend to a very free system of commerce" and regarded as self-evident the notion "that commercial shackles are generally unjust, oppressive, and impolitic." He recognized that "all are benefitted by exchange, and the less this exchange is cramped by Government, the greater are the proportions of benefit to each."

In 1792 Madison wrote, "Liberty and order will never be *perfectly* safe, until a trespass on the constitutional provisions for either, shall be felt with the same keenness that resents an invasion of the dearest rights; until every citizen shall be an Argus to espy."

Argus, of course, refers to a giant with 100 eyes who acts as a guardian—in Madison's case, a guardian of our liberties. In a free society, citizens must be vigilant and be able "to espy"—that is, to see at a distance—and use reason to discern the long-run implications of alternative policies.

Unless people learn to judge policy from a constitutional or long-run viewpoint, and not just consider it in the postconstitutional setting of majority rule, they will lose their freedom. By taking a long-run view and exercising "right reason," individuals are more likely to agree to constitutional limits that insulate economic life from politics and prevent "rent"-seeking behavior that redistributes, rather than creates, wealth. That is a point James M. Buchanan, founder of the Public Choice school of economics, has so eloquently stated.

Lessons for Emerging Democracies

There are several important lessons that emerging democracies can learn from Madison's constitutional vision:

- For true democracy to prevail, government must be limited and must be just; the security of persons and property must take precedence over electoral politics.
- To prevent rent-seeking and corruption, economic freedom must prevail; people must accept a rule of law that treats people equally under the law and safeguards private property rights and freedom of contract.
- A spontaneous market-liberal order will arise to coordinate economic activity and create wealth, provided the government minimizes its role in the economy and lets people be free to choose.
- A free society cannot coexist with a redistributive state—there is no "Third Way"; people must be ever vigilant to ensure that majorities are prevented from violating the rights of minorities in the name of distributive justice.

How quickly those lessons are learned in countries making the transition to democracy

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will depend crucially on the size and scope of government in the old regime and the duration of the old regime. For countries that had all-powerful governments and central planning for long periods of time, the transition to a liberal democratic state with the rule of law and free markets cannot be expected to occur as quickly as in countries with smaller governments, some experience with markets, and a memory of freedom.

The Freedom House rankings for democratization and economic liberalization for ex-communist countries, as of June 1999, show that nearly all of the post-Soviet states, or Newly Independent States, lag significantly behind Eastern and Central European countries that had previous experience with a liberal political and economic order.

Similar results hold for the Freedom House's rankings for adherence to the rule of law and for the extent of corruption. Ex-communist countries that experienced the rule of law prior to World War II and respected property rights—such as Hungary, Poland, and Slovenia—have made faster progress on moving toward the rule of law and reducing corruption during the transition to democratic capitalism than countries such as Russia and Ukraine.

That Russia is making such slow progress should not be surprising; it takes time to change one's thinking after so many years under totalitarian rule. As Alexander Tsypko, a professor of philosophy at Moscow State University, wrote in the *Cato Journal* in 1991, just prior to the collapse of the Soviet Union: "It is hard—very hard—to admit that your life and your work are being senselessly wasted and that you are living in an unnatural, false society, headed with your country for the dead end of history."

The future of limited government in emerging democracies will depend on adherence to the rule of law and justice in the Madisonian sense. Citizens and leaders need to think about the proper scope of government and recognize the dangers of universal suffrage *when there is no effective limit to the scope of government.* Madison's fundamental question is still relevant today, namely: How can we protect individual rights against majoritarian interests that violate private property rights?

In conclusion, emerging democracies need to consider the long-run implications of alternative rules, not just look at short-term policy options for redistributing income and wealth. They need to foster an ethos of law and liberty. Moreover, they need to recognize that change will take time and that there is no viable "Third Way." Ultimately, political freedom requires economic freedom, and vice versa. To protect both requires limited government.

Perhaps the biggest challenge for the future of limited government is to move China toward the rule of law and freedom. China's leaders should heed the advice of Jixuan Hu, who recently wrote:

> By setting up a minimum group of constraints and letting human creativity work freely, we can create a better society without having to design it in detail. That is not a new idea, it is the idea of law, the idea of a constitution. Real constitutional government is a possible alternative to the dream of a perfectly designed society. . . . The idea is to apply the principle of self-organization.

History has proven that *Madison was right* and *Marx was wrong*. The future of freedom and democracy rests with the Madisonian vision of limited government. Let us salute the "great little Madison." One person *can* make a big difference! □

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IDEAS ON LIBERTY
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An Aristocracy of Pull?

by Thomas M. Wilson

There are two ways by which rewards can be allocated in a society: status or achievement. Although no society relies solely on one way, the weight placed on one side or the other has profound consequences not only for economic growth, but for politics as well. Societies that place too much emphasis on status will stagnate, or grow slowly, and will often be regarded as unjust, despite the efforts of many in the system to claim precisely the contrary. Political instability will be more likely than stability, and order will be achieved only through attempts at rigid control, often failing in the long run.

Societies that place great emphasis on status are common, and some examples stand out, such as China during most of its history, medieval Europe, Latin America, and modern communist states. In its precommunist history China had an extremely rigid system of status into which one was born and died, and could not escape. This was regulated by a powerful bureaucracy and was backed up by the concept of *tao*. Everyone had a little niche; no one could leave or rise above his allotted status. One was rewarded, if at all, for remaining in his place. In such a system it is no surprise that the pace of change was astonishingly slow.

Medieval Europe also placed much emphasis on status, with its aristocracy and titles, its primogeniture, its classes and guilds. One consequence was slow economic growth. Another was resentment, which from time to time exploded in violence. It was the shifting away from status to achievement that helped fuel the growth of modern capitalism and liberal democracy. This was what the nineteenth-century English jurist and historian Henry Sumner Maine seemed to realize in *Ancient Law*, when he wrote that movement toward more progressive societies was the "movement *from Status to Contract*" [his emphasis].[1]

Those ideas did not spread evenly or quickly. In the New World, for example, Spain clung to its devotion to status considerations and its notions of *patrón and peón*. In Spanish America, it should be recalled, the wars of independence in the early nineteenth century were not revolutions. They were reactionary rebellions led by native-born elites, known as *criollos*, aimed at restoring the monarchial system toppled by Napoleon's invasion of Spain and ouster of Ferdinand VII.

Even in the middle of the twentieth century the value put on status by the Spaniard (and the Latin American) was still enormous. It shaped his behavior to such an extent that in 1949 René Williamson tried to explain it in a little book called *Culture and Policy*. Williamson wrote of the Spaniard, "It isn't how a living may be earned that he thinks important, but who earns it. It isn't what legal rights you happen to have that he wants to know about but who you are."[2]

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The primacy of status in Latin America and its effects on politics has continued to our own day. The lust for status gives Latin American politics an often chaotic appearance that many outsiders do not understand.

One exception is the American political scientist and *Ideas on Liberty* contributing editor James L. Payne, who wrote more than 30 years ago in *Patterns of Conflict in Colombia,* "Status motivation leads to certain distinctive patterns of behavior. It produces, for example, an emphasis upon 'credit-getting' or fame. The important thing is not to achieve but to be credited with achieving, whether one has or not."[3] Payne went on to observe that the pursuit of status had a "corrosive effect on friendly personal relations." It led to constant infighting, to mistrust and instability. The status-motivated individual is obsequious with superiors and arrogant with inferiors. He has little interest in doing a job or seeing projects to completion.

Payne recognized that in such status-conscious societies certain political consequences were likely. It is the longing for status and the low value placed on actual achievement that leads to factionalism and shrill conflict, to corruption, manipulation, and influence peddling. After all, it is not *what* you know, but *who* you know.

The primacy of status is not, of course, unique to Latin America or to feudal states. Communists also decry economic or other rewards based on achievement. Their ideology rejects profit, individualism, competition, and wealth as "immoral." In a system that suppresses the rewards of individual achievement, status takes on a heightened importance. One result has been party bosses with their special stores, clinics, cars, houses, and other privileges, all derived from their rank, or status.

Nowhere has this been better described than in Michael Voslensky's book *Nomenklatura*.[4] Voslensky captured in brilliant detail many features of the internal functioning of the old Soviet communist party and the motivations of its elite members. They were men nearly obsessed with maintaining a rigid and monopolistic system of privileges, one which produced such stagnation that it collapsed. Now an impoverished and demoralized society is trying to rebuild. It will be difficult in a land so accustomed to punishing even the attempt at individual achievement.

Status in an Achievement-Oriented Society

Yet even in an achievement-oriented society the status temptation is a powerful one to certain groups. Many intellectuals are especially inclined toward status. This is true, first, because they believe that their status qua intellectuals entitles them to rewards that a system stressing achievement might not want to hand out. They are nagged by fears of failure and inadequacy. They despise those who produce "popular" fiction or art (Raymond Chandler, Norman Rockwell). They struggle to gain money through methods other than a competitive market, especially grants, which can be controlled through a network of personal connections. A status system insulates against failure. What is a third-rate painter to do without a grant?

In any system that overemphasizes status, personal connections, in fact, become central to day-to-day life. Whom you know and how they regard you become the principal questions. Without other measures of achievement, manipulation is essential.

Public bureaucracies epitomize reliance on status considerations. How ironic it is to apply the term "merit system" to the bureaucracy, where one is seldom rewarded on the basis of merit, accomplishment, or achievement. Those in the "merit system" are those who are never fired, almost cannot be; who are never demoted (and rarely promoted); and are usually given raises on the basis of non-achievement criteria (longevity, seniority, position, and personal connections).

But once again, no society relies totally on one criterion to the exclusion of the other. The mix, however, is important.

America began as a society stressing achievement. It is no accident that titles of nobility are forbidden in the Constitution. This does not mean, however, that all considerations of status were dropped; actually, the

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worst kind was maintained: slavery. But in a society exalting achievement the contradiction could not be long maintained or tolerated, and in less than a hundred years from independence the issue came to a head.

The temptations of status are difficult to resist. Why struggle to achieve if I can be rewarded for who I am rather than what I do, especially if I can rig the system in my favor? There is no shortage of Americans who want more importance attached to status-based criteria for distributing rewards. Ironically, many of those we call liberals are constantly trying to strengthen status criteria, especially that of group membership. This is usually hidden in the rhetoric of affirmative action programs, "rights" talk,[5] and the like. It finds its way into demands to abolish standardized testing for jobs and academic evaluations, and "gender norming." Let us, they say, choose those we will reward on the basis of their officially approved status as a member of some group.

One of the chief complaints of American "liberals" is directed toward the unequal distribution of wealth. This, they believe, does not reflect achievement; it is not earned or deserved; it is unfair. There very well may be rich and poor in an achievement-oriented society. What is different from a status-oriented society, however, is that the same people do not necessarily stay in their place.

Toward the middle of the nineteenth century that perceptive French nobleman, Alexis de Tocqueville, wrote: "It is not that in the United States, as everywhere, there are no rich; indeed I know no other country where love of money has such a grip on men's hearts or where stronger scorn is expressed for the theory of permanent equality of property. But wealth circulates there with incredible rapidity, and experience shows that two successive generations seldom enjoy its favor."[6]

Tocqueville captured in a single sentence the possibilities of an open, achievement-oriented society when he wrote, "In America most rich men began by being poor."[7]

Circulation of Wealth

Nearly a century and a half later, the circulation of wealth that Tocqueville had observed was essentially still the case in the United States. Studies conducted in 1992 of tax returns showed that dividing incomes into fifths, or "quintiles," was misleading because such great income mobility exists in the United States. The rich and poor are not the same individuals or households from year to year. The claims by the egalitarians that the top 20 percent, or even top 5 percent, control most of the wealth in the United States ignores the fact that many of the wealthy move *downward*, while most of the poor move *upward* over time. Tocqueville was right.

A status system has its supporters, and why not? Status rewards can be comfortable and give a sense of security to the lucky ones. Achievement suggests non-achievement: success frightens us with the possibility of failure. No one wants to fail or to be seen as inadequate. But do we really want a pervasive status-oriented society? It would surely be a rigid rather than a fluid one, and in the long run it would be neither just nor fair, despite the claims and rhetoric of its proponents and beneficiaries. Only the firm hand of government could keep everyone in his place, his sanctioned status. Otherwise, some would rise and some would fall.

Faced with a natural desire to pursue their own interests, many will resort to manipulation and personal connections to achieve their ends. A status-oriented society encourages this because the emphasis is on who you are, what you are, and whom you know, rather than what you do. It fuels the conflict and lack of interest in real accomplishment Payne observed in Latin America.

More than four decades ago Ayn Rand recognized what might happen if achievement were undermined as a value when she wrote this passage:

> "We are at the dawn of a new age," said James Taggart from above the rim of his champagne glass. "We are breaking up the vicious tyranny of economic power. We will set men free of the rule of the dollar. We will release our spiritual aims from dependence on the owners of material means. We will liberate our culture from the stranglehold of the profit-chasers. We

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will build a society dedicated to higher ideals, and we will replace the aristocracy of money by—"

"—the aristocracy of pull," said a voice beyond the group.[8]

Pull has always been a fact of American life. Examples of its more corrupt form abound, from the Grant administration to the Clinton administration, from Tweed of Tammany Hall to Edwards of Louisiana. At the same time, its practice violates other basic American values. One is that no group should be granted a special or superior status and endowed with privileges denied to the rest of society. To put it another way, individuals should be responsible for themselves and be rewarded for their own grit and determination, not because they possess certain characteristics over which they have little or no control. Some years ago the sociologists Talcott Parsons and Edward Shils observed, "an orientation toward achievement is inherently 'individualistic.'"[9] It is individualism and achievement that make America unique and great. Rewarding people on the basis of their status in some officially defined and sanctioned group will, in the end, do more harm than good. □

1. Henry Summer Maine, *Ancient Law: Its Connection with the Early History of Society, and Its Relation to Modern Ideas* (Tucson, Ariz.: University of Arizona Press, 1986), p. 165.
2. René de Visme Williamson, *Culture and Policy* (Knoxville, Tenn.: University of Tennessee Press, 1949), p. 9.
3. James L. Payne, *Patterns of Conflict in Colombia* (New Haven, Conn.: Yale University Press, 1968), p. 12.
4. Michael Voslensky, *Nomenklatura: The Soviet Ruling Class* (Garden City, N.Y.: Doubleday, 1984).
5. See for example, Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York: Free Press, 1991).
6. Alexis de Tocqueville, *Democracy in America*, ed. J. P. Mayer, trans. George Lawrence (New York: Harper and Row, 1969), p. 54.
7. *Ibid.*, p. 55.
8. Ayn Rand, *Atlas Shrugged* (New York: Signet, 1985), pp. 381–82.
9. Talcott Parsons and Edward A. Shils, *Toward a General Theory of Action* (Cambridge, Mass.: Harvard University Press, 1967), p. 208.

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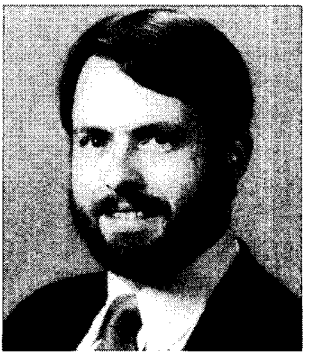
AUGUST 2001



Letting Competition Reign

Postage rates rose at the beginning of the year. It costs another penny for regular first class. And an extra 20 cents to send a letter overseas. Bulk-rate mailing is also a lot more expensive.

But no matter, we are told. The U.S. Postal Service (USPS) assures us that it is the best on earth. The hikes were a minor boost compared to the benefits received.

Oops. USPS now says that it expects to lose as much as $2 billion this year. Which means another price increase is in the offing, perhaps just a year away.

And even that might not be enough. Postal officials say they might have to cut Saturday deliveries.

The Postal Service is not the first business to find it tough going in the slowing economy. What makes USPS different, however, is that it is a government-protected monopoly.

When other companies find demand slumping and costs rising, they, too, can raise prices. But they risk losing business to more efficient competitors that respond more adroitly to changing market conditions.

Not USPS. It simply hires a few more lawyers to prevent anyone from poaching on its turf.

That's why UPS and Federal Express deliver packages and overnight letters, but not normal mail. It's why groups like the Boy Scouts can't deliver Christmas cards locally.

Doug Bandow, a nationally syndicated columnist, is a senior fellow at the Cato Institute and the author and editor of several books.

It's why postal inspectors have shown up at businesses ready to impose fines if workers carried letters overseas to mail. And why the USPS claims the right to determine whether messages were sufficiently "urgent" to warrant overnight delivery. The Postal Service tried to stop the Atlanta Braves from delivering their tickets via UPS—even though government agencies once routinely used private delivery services.

The post office benefits from additional government privileges. Uncle Sam pays the pension benefits of retired postal workers. The Postal Service borrows money at low government rates. And USPS pays neither taxes nor traffic tickets. The former alone saves some $4 billion, estimates Ruth Goldway, a member of the Postal Rate Commission, which exercises some regulatory control over USPS price hikes.

If you complain, the post office will remind you that delivering the mail is tough business. A few years ago the postal system's vice president for New York, John Kelly, responded to complaints of poor service: it is "very difficult for the Postal Service to efficiently transport mail" in urban areas. D.C. postal worker Mickey Hall agreed: "The public doesn't realize what we go through to get the mail out."

Most people also don't realize that although the postal system defends its monopoly to the political death, it hires private firms to presort mass mailings before they are sent. Many rural carriers are private contractors too.

Moreover, for years USPS shipped mail via Emery World Wide Airlines and Kitty Hawk

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Air Cargo. In January the Postal Service signed a contract to send 3.5 million pounds of Priority and Express mail via Federal Express. Postmaster General William Henderson explained that doing so would save $1 billion.

Although USPS can't do its job without outside help, it has used its privileged position to jump into other markets. The various subsidies and first-class monopoly help it compete in packages and urgent mail. The system now sells phone cards and even clothes. It is also planning an on-line bill-paying service, as if there were a dearth of private activity on the Net.

Never Accused of Being Nimble

The post office likes to defend itself by saying that it is the world's most efficient system, as if being the best monopoly were something to glory in. Nor was that ever obviously true—after all, it is easy to seem efficient when serving the globe's biggest and most lucrative economy. Certainly nimble entrepreneurship and consumer responsiveness are not virtues ever associated with the post office.

Moreover, other countries are now abandoning their public monopolies. Germany, the Netherlands, New Zealand, and Sweden have moved toward competition and privatization. Australia, Britain, and even the European Union are looking at similar strategies.

What conceivable reason is there to preserve the government's postal monopoly? USPS warns that ending its monopoly endangers cheap, universal service. Private vendors would "skim the cream" and charge more for more distant addresses.

In fact, there are obvious benefits for a company when it offers uniform service and price. Indeed, if consumers wanted uniform prices, they would presumably patronize the company or companies that offered them. (Rural shipments account for only 4 percent of the Postal Service's revenues.)

But even if private firms chose to charge some consumers more, so what? Housing costs are lower in rural America. The natural vistas are more beautiful. If someone chooses to live on a mountaintop, why should the rest of us have to subsidize his mail delivery? The Constitution does not guarantee the right to cheap mail service.

Some USPS arguments reflect desperation. One retired postmaster told me that the postal monopoly was justified because government-subsidized mail shipments had helped create the steamship and airline industries.

The only real argument against America's moving in the same direction as the rest of the world is that the Postal Service's 900,000 employees, up from 820,000 at the start of the Clinton administration, wouldn't like it. After all, a competitive market would make it tougher for them to demand their present wages for their present work.

But why do postal employees have a right to use a political monopoly to extort money from consumers? The steelworkers, say, have equal claim for the government to establish one monopoly company and outlaw any competitors. Indeed, that's what many Third World states have done routinely, thereby impoverishing themselves. Postal employees are not entitled to their unique form of middle-class welfare.

In a market economy, companies usually thrive by satisfying consumers. USPS survives by pacifying congressmen. Customer service is an afterthought: In 1990 Postmaster General Anthony Frank explained that he planned to cut promised delivery times to provide "more consistent service, not less. I think that will save all of us money and a lot of pain."

But we all suffer more than just inconvenience. Leaving the important mail communication link for all Americans in the hands of an overstaffed, unresponsive bureaucracy never made sense. It makes even less sense in this age of dramatic technological change.

Tough international competition and rapid technological change have been transforming the U.S. economy. But the post office remains a backward and inefficient monopoly. Before USPS raises rates again, Congress should enact a privatization blueprint, welcoming mail delivery to the 21st century. □

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IDEAS ON LIBERTY
AUGUST 2001

Government: Head or Hand?

by Nicholas Kyriazi

A collectivist strain in Western thought envisions society as an organism, with government as the head and the population as the body controlled by the head. This is certainly not what America's Founding Fathers had in mind, however, and this way of constituting society has created many problems that, if not altered, will aggravate the difficulties plaguing Western civilization.

The proper constitution for a free society, which has no analogy in nature, is one in which government serves as a hand controlled by many heads. Since multiple heads can rarely agree on things, however, the number of issues brought before them to decide is best kept to a minimum. Two things that most everyone can agree on are that no one has the right to initiate force against someone else and that people should honor their commitments. Government should limit its role to these two areas; any more than that and instead of being a referee, government begins to favor one citizen, or group of citizens, over the others. And that is the root of most of society's present problems, because no one wants to be forced to support a government that picks favorites, unless it's *him*.

Government favoritism is impossible to avoid when the state strays from being protector and enforcer. From funding the arts in the United States and giving government jobs to Protestants instead of Catholics in Northern Ireland (or to Serbs instead of Croats or Bosnians in Yugoslavia) to forbidding women from exposing their faces in Afghanistan, government is the unseen instigator in many conflicts throughout the world. Instead of attempting to end the favoritism by withdrawing government from such areas of intervention, people fight for control of the power. This is certainly understandable, since the bearer of gifts (stolen or not) is popular and powerful, and forcing others to behave as you wish is a potent lure. But the solution to our problems is not to wrest control of government from those who oppress us so that we can oppress them. The solution is to reduce government to its most basic role: protecting its citizens.

In a free society, Jews and Arabs, Catholics and Protestants, or Serbs, Croats, and Bosnians would not be fighting for control of land to guarantee that they were not unfavorably treated by those in control of government. In the United States, government favoritism does not usually result in such life-threatening conflicts, but forcing everyone to pay for something used by only a few (economic coercion) or forcing everyone to behave in a manner favored by the group in power (behavioral coercion) is just as wrong. Whether it is welfare for the poor or the rich; grants to orchestras or sports teams; subsidies for farmers of peanuts, sugar, cattle, or tobacco; repeated disaster assistance for earthquake-, tornado-, hurricane-, mudslide-, or brushfire-prone areas;

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or restrictions on behavior such as prostitution, gambling, drug use, or biblically proscribed sexual acts, government has no authority—constitutional, moral, or divine—to intervene. However, the U.S. government has for so long exceeded its authority, and to such an egregious extent, that few people even think to question it. Perhaps when the police walk into our houses some night and tell us to turn off the TV and go to bed because it's late and we need to be rested for work tomorrow, perhaps then we will rebel. Or perhaps we will go to bed.

Government Expansion

It's not difficult to understand how government has gone from being our servant to our master: "government" is such a nebulous term that its duties are not well defined in anyone's mind. The duties have become virtually whatever any legislature decides them to be. Over the past 200 years in the United States we have given government an inch and it has taken a mile. This is also not difficult to understand. Imagine that you have authorized your bank to permit utility companies to directly withdraw payments from your checking account. Now imagine that the bank is approached by a nearby daycare center seeking funding to pay for puppet shows for the children in its daily care. The bank president thinks that this is a good idea, and you get a notice in the mail that the bank is now deducting $5 a month from your account. If you complain, you are reprimanded: "You support the children, don't you?" If you have children in that daycare center, you may not mind that others are paying for their entertainment. Or if you work for the puppet-show company, you might also support it. As George Bernard Shaw said, "A government that robs Peter to pay Paul can always depend upon the support of Paul." Of course, you could always withdraw your money from a private bank that proposed such a ludicrous policy. With the government, you cannot. What the statists fail to understand is that if it's not voluntary it's not charity. It's theft.

This type of situation, multiplied many times over, in many different ways, reveals how we got to our present state. Everyone is forced to throw money into a big pot, and then everyone tries to get out more than they put in. Libertarians, however, see through the charade and believe that everyone should directly pay for what he uses. You get exactly what you want for a competitive price, and the politicians don't take a cut for deciding how to spend your money. □

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IDEAS ON LIBERTY
AUGUST 2001

Freedom of Education: A Civil Liberty

by Barry Loberfeld

One of the most amazing things about the many organizations and individuals who designate themselves "civil libertarians" (with the ACLU, naturally, being the most emblematic) is the utter absence of educational liberty from their shared agenda. It's not even a blip on their screen. Why? Because it's not explicitly mentioned in the Bill of Rights? These activists have no problem defending as civil liberties such phenomena as sexuality and abortion, neither of which is explicitly enumerated. So why not defend educational liberty with the same commitment given to, say, religious liberty?

There's an even better question: Why defend religious liberty? No one asks it nowadays because we consider it a settled matter: "It's in the Constitution!" But that's not the way it was at the beginning, when people wanted to hear reasons—independently valid principles—that would explain why involvement with religion was not among "the rightful purposes of civil government" (Jefferson). And our Founding Fathers, notably Jefferson and Madison, provided those reasons—a good many. We should never forget what these reasons are, nor fail to consider their implications for (and thus application to) matters other than religion—such as, indeed, education.

First, however, we must consider what the Founders meant by religious "liberty." The First Amendment reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." Religious liberty includes both the freedom *and* the non-establishment of religion. Thus educational liberty would include not only the right of parents to determine the education of their children, but also the absence of any "public" (government) school system and its apparatus of compulsory attendance and taxation. Or as many describe it: the separation of school and state, on par with the separation of church and state.

Now, with that said . . .

Competition Improves Performance

In his "Bill for Establishing Religious Freedom" (1777), one of the three achievements (with the Declaration of Independence and the University of Virginia) of which he was most proud, Jefferson argued that by forcing a man to support (via taxation) "this or that teacher" (of religion), he is denied "the comfortable liberty of giving his contributions" to one of his own choosing. This guaranteed funding in turn eliminates the incentive ("rewards") for such teachers to earn their wages through "earnest and unremitting labours for the instruction of mankind." Furthermore, such government funding constitutes the "bribing, with a monopoly of worldly honours and emoluments," of these teachers, which tends "to corrupt the principles" of their profession—with the government itself

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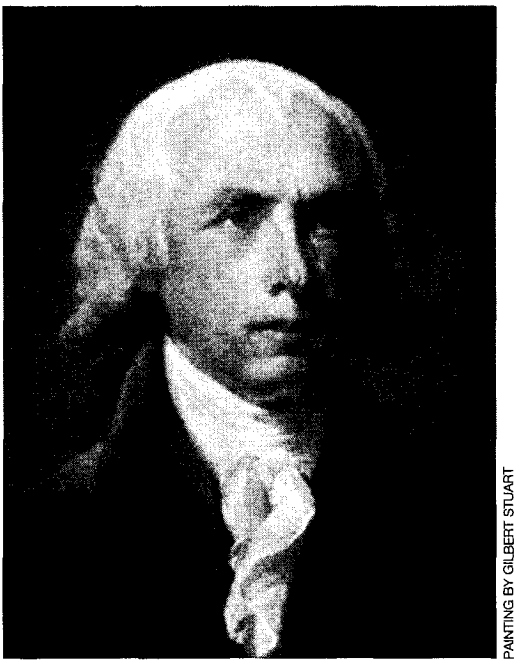
corrupted by its part in this bribery. Here is a critique of state cartelization equally applicable to all teachers—theological, academic, and otherwise.

In his "Memorial and Remonstrance Against Religious Assessments" (1785), written in response to a proposed bill for a tax to fund Christian denominations in Virginia, Madison echoed Jefferson on this point (as he did on many others). He invites us (Point 7) to observe that establishment, "instead of maintaining the purity and efficacy" of religion, has had the opposite effect: "pride and indolence" and "ignorance and servility." He wryly notes that if one asks people when Christianity "appeared in its greatest lustre," they will invariably "point to the ages prior to its incorporation with Civil policy." Yet if one then suggests a return of the church to its status in that earlier epoch, "many of them predict its downfall." Similarly, while no one could seriously fault the supply and quality of private education in late eighteenth- and nineteenth-century America,* many today believe that privatization would destroy education for all but the wealthy.

Government Support Not Necessary

In his "Memorial," Madison noted (Point 6) that Christianity had "both existed and flourished, not only without the support of human [that is, political] laws, but in spite of every opposition from them. . . . Nay, it is a contradiction in terms; for a Religion not invented by human policy, must have pre-existed and been supported, before it was established [socialized] by human policy."

The state did not invent the church. It did not invent the school. Education, in a myriad of forms, existed before government and often in opposition to it. A recent example of the latter (in addition to private schools) would be parents who, at odds with the look-say, or "whole language," reading methods used in the socialized schools, purchase the



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James Madison (1751–1836)

many commercial teach-your-child-phonics programs. Madison also warned that establishment would "foster in those who still reject [Christianity], a suspicion that its friends are too conscious of its fallacies to trust it to its own merits." We ourselves might wonder why the advocates of "whole language" (or any other pedagogical approach) are afraid "to trust it to its own merits" in a free market of education.

At this point we should probably address the many who from the beginning have been thinking, "But Madison and Jefferson supported public education!" True. However, Madison's concerns about the future of education proved to be unfounded for a reason that he himself (in a March 19, 1823, letter to Edward Everett) understood in its relation to religion: "[T]here are causes in the human breast, which ensure the perpetuity of religion without the aid of the law." The same "human breast" that provided its children with churches and bibles, provided them with schoolhouses and primers. The point is, just because the Founders didn't connect every dot in their political philosophy, doesn't mean we can't. Not many of the civil libertarians who fairly worship Thomas "Wall of Separation" Jefferson would care to recall his views on "sodomy."

*See Sheldon Richman, *Separating School and State: How to Liberate America's Families* (Fairfax, Va.: The Future of Freedom Foundation, 1994), pp. 37–39.

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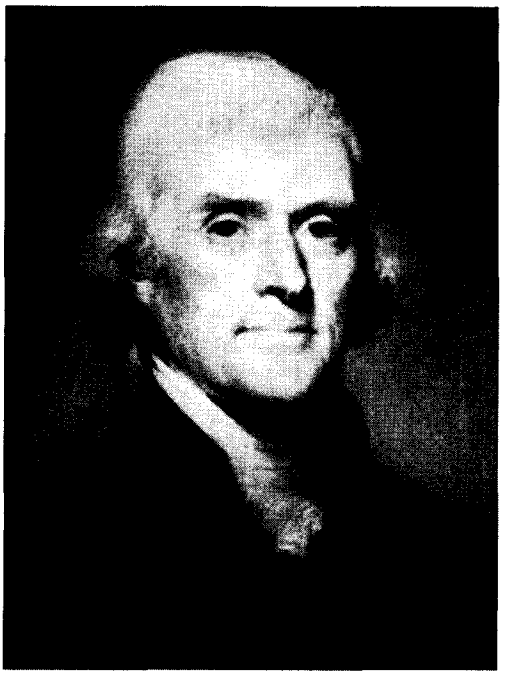
The Limits of Limited Government

In *The Godless Constitution: The Case Against Religious Correctness* (1996), Isaac Kramnick and R. Laurence Moore write:

> The conviction that religion lay outside the provenance of government rested for Madison, as for Jefferson, on Lockean liberalism. The purpose of the civil state, Madison wrote, was "to protect the property of every sort," which included "the rights of persons to their external goods" and to the "enjoyment and communication of their opinions." Opinions and conscience were also sacred forms of individual property, as crucial to one's sense of self as material possessions were. Government, then, according to Madison, had no more right to invade or regulate "a man's conscience" than "his castle," both of which were his "natural and unalienable rights."

If government is limited to the protection of the rights of each man to his opinions and possessions, then it violates those limits by doing anything else, including the establishing of *anything*, be it religion, education, or what have you. Jefferson, in his chapter on religion in "Notes on the State of Virginia" (1781), relates this point to the prohibiting of the free exercise of anything that does not violate those rights: "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbour to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg." Similarly, "it does me no injury" if my neighbor provides his child with a Hindu education or a purely secular one. In stark contrast, public education, with its compulsory taxation and attendance laws, very much "picks my pocket" and "breaks my leg," that is, threatens me with coercion.

Just as government is not to suppress the opinions of anyone, so it is not to *promote* the opinions of anyone. Jefferson's "Bill" unequivocally declares "that to compel a man to furnish contributions of money for the



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Thomas Jefferson (1743–1826)

propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." If we grant that, then it should make no difference whether those same opinions are propagated by a tax-funded state church or a tax-funded state school.

Equality Before the Law

In Point 4 of the "Memorial," Madison avers that "the Bill ["Establishing a Provision for Teachers of the Christian Religion"] violates that equality which ought to be the basis of every law . . . by subjecting some to peculiar burdens . . . [and] granting to others peculiar exemptions." Some parishioners will have their preferred teachers (of religion) recognized, and thus funded, by the government, while others won't—a perfect analogue to today's situation in education, where some parents (who in conscience approve what is taught in public schools) have their preferred teachers paid with tax dollars, while others don't. Madison commended the Quakers and Mennonites, by no means all wealthy people, for thinking "compulsive support . . . unnecessary and unwarrantable." Shouldn't we likewise commend the many parents, hardly all

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Rockefellers, who reject the educational establishment and assume the responsibility of providing for the instruction of their own children?

In his notes on the debate over religion in the Virginia General Assembly in December 1784, Madison fretted over the many conflicts that would attend an establishment of religion: what school of theology to be adopted ("Is it Trinitarianism, arianism, Socinianism?"), what version of the bible to be used ("Hebrew, Septuagint, or vulgate?—what copy—what translation? What books canonical, what apocryphal?"), what method of interpretation to be employed ("In what light are they to be viewed . . . ?"), what doctrines to be deemed factual ("What sense the true one[?] . . . [W]hat is orthodoxy, what heresy?").

The parallels to these conflicts in the establishment of education have become part of our latter-day "culture wars." What school of pedagogy should be adopted by the public schools—classical, progressive, instrumentalist? Which thinkers should be consulted—Pestalozzi, Froebel, Herbart, Montessori, Adler? What methods of discipline are to be employed by teachers? How should reading be taught—phonics or "whole language"? What textbooks should be used? Which historians' interpretations should be taught as history? What should be taught as science—evolution, creationism, both, or neither? What should be taught in sex education—abstinence, birth control, both, or neither? Should religion be taught *about*—and if so, how? These are actually but a few of the ever more numerous and more polarizing controversies that different parents—and different special-interest groups—demand be resolved in their favor. Madison understood that establishment would "destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion has produced" ("Memorial," Point 11). Today, it is through laws that "intermeddle" with education that establishment is undermining the "moderation and harmony" of our society.

Why is there an establishment of education? Jefferson ("Notes") offered insights that can explain why education, like religion, would come under government control:

> [W]hy subject it to coercion? To produce uniformity. But is uniformity of opinion desirable? No more than of face and stature. . . . Difference of opinion is advantageous. . . . The several sects perform the office of a Censor morum over each other. Is uniformity attainable? Millions of innocent men, women, and children, since the introduction of Christianity, have been burnt, tortured, fined, imprisoned; yet we have not advanced one inch towards uniformity. What has been the effect of coercion? To make one half the world fools, and the other half hypocrites. To support roguery and error all over the earth.

Many contemporary public-school apologists, well aware of and thoroughly embarrassed by the role that public education played in the past to impose conformity (to an ideal of WASP America), boast that now the schools teach "diversity." But what is a monolithic establishment of education that teaches "diversity" except the counterpart to a monolithic establishment of religion that preaches polytheism? Neither can seriously claim neutrality, and in both cases the only way to truly achieve diversity is through disestablishment.

Madison (in the same notes) harbored no illusions as to who would ultimately decide the innumerable dilemmas created by establishment: "Courts of law to Judge." Likewise, government officials, from the state level to the Supreme Court, will determine what is to be taught (implicitly as well as explicitly) as truth—in history, morality, science, and so on—in the public schools. In the "Bill," Jefferson expounded the nature of the injustice involved: "[T]o suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own."

Interestingly, our civil libertarians have recognized that the validity of this argument applies, not only to religious liberty, but to all

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intellectual liberty, hence their commitment to "freedom of expression." Having showered their blessing on the generality of the principle, they have concomitantly doused any exclusion of education.

The Mind Requires Freedom

Jefferson began his "Bill" with the acknowledgment "that the opinions and beliefs of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness."

And in his December 16, 1786, letter to Madison about the reception given his "Bill" in Europe, he wrote: "In fact it is comfortable to see the standard of reason at length erected, after so many ages during which the human mind has been held in vassalage by kings, priests and nobles: and it is honorable for us to have produced the first legislature who has had the courage to declare that the reason of man may be trusted with the formation of his own opinions."

A question: What are the objectives of the various ideological groups that are fighting to get their agendas into the public school system if not to "influence"—*control*—the minds of the young people therein conscripted? If it's thought control when the government forces religious thought on these students (or anyone else)—something no civil libertarian disputes—it is because it's thought control when the government forces *any* kind of thought on them. Let families choose their educational affiliations the way they choose their religious affiliations and *then* we can say that Americans are fully trusted with the formation of their own opinions.

One popular theory assigns to the public school the role of establishing and imparting valuable truths that might otherwise not be taught (or worse, might be contradicted by what *is* taught) by the family, the church, and other social institutions. But what will really be the effect of compulsory education on Johnny, who may indeed hold beliefs contrary to the school curriculum? Again, Jefferson ("Notes") provides an answer:

> Constraint may make him worse by making him a hypocrite, but it will never make him a truer man. It may fix him obstinately in his errors, but will not cure them. Reason and free inquiry are the only effectual agents against error. Give a loose to them, they will support the true [idea], by bringing every false one to their tribunal, to the test of their investigation. . . . [T]he Newtonian principle of gravitation is now more firmly established, on the basis of reason, than it would be were the government to step in, and to make it an article of necessary faith. Reason and experiment have been indulged, and error has fled before them. It is error alone which needs the support of government. Truth can stand by itself.

Precisely which truths do the defenders of public education imagine can *not* stand by themselves? As we've seen, everyone has his own notion, as will every judge. None of which makes any difference: If people do not believe the theory of evolution when it is verified by physical scientists—or the doctrine of creation when it is preached by gospel ministers—will they believe it when it is recited by civil servants? The imprimatur of the state is not proof of anything, and coercion by its nature, forces a man to submit not to truth (or beauty), but only to itself.

Parents' Rights Violated

Another reason Jefferson ("Notes") opposed laws denying religious liberty was their cruel punishments, including: "A father's right to the custody of his own children being founded in law on his right of guardianship, this being taken away, they may of course be severed from him, and put, by the authority of a court, into more orthodox hands."

Those who've been taught that Jefferson fully envisioned and endorsed our contemporary model of public education will doubtless

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be surprised to learn that his reason for opposing heresy laws was also his reason for opposing compulsory attendance laws: "It is better to tolerate the rare instance of a parent refusing to let his child be educated than to shock the common feelings and ideas by the forcible asportation and education of the infant against the will of the father."

Another consideration in this regard takes us back to the very beginning (Point 1) of the "Memorial": Madison's insight "that Religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence." For many, the education of their children—what should and should not be taught—*is* the duty that they owe to their Creator. If, as Madison continues, the "Religion then of every man must be left to [his] conviction and conscience," the *education* then of every man's children must also "be left to [his] conviction and conscience." Observe that the inherent religious aspect of education is confirmed even by the atheist, who also thinks his religious liberty violated when the public schools teach his children ideas that deny his beliefs. Indeed, how could we ever imagine education as a matter to be directed, not by the "reason and conviction" of parents, but by the force and violence of the state?

Madison keenly recognized (Point 9) that "establishment is a departure from that generous policy [of religious liberty], which, offering an Asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country. . . . [In contrast to freedom of religion, establishment] is itself a signal of persecution. It degrades from the equal rank of citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be, in its present form, from the Inquisition, it differs from it only in degree. The one is the first step, the other the last in the career of intolerance."

By virtue of a number of Supreme Court decisions—namely, *Meyer v. Nebraska* (1923), *Pierce v. Society of Sisters* (1925), and *Wisconsin v. Yoder* (1972)—Americans have freedom of education: Parents do not have to send their children to public schools. But it is a freedom of education that is chained to an *establishment* of education, a situation identical to that of the many European nations (such as the United Kingdom and Norway) that have both freedom of religion and an established church. The reasons why Madison opposed establishment of religion are the reasons why we must oppose—and change—establishment of education. Where is the logic in ensuring equal justice by granting freedom of education to all, only then, through establishment, to make a mockery of that equality for "those whose opinions"—in education—"do not bend to those of the Legislative authority"? And if we continue to accept as valid the premises that justify the violation of educational liberty by establishment—"the first step"—will the logic of those premises not lead us inexorably to the violation of educational liberty by the outright abolition of freedom of education?

If freedom of education, like freedom of religion, is to have a future, it will be one without state establishment. Civil libertarians who applauded Sweden's disestablishment of its long-standing national church should be cheering on the effort to disestablish America's long-standing public school system.

Encouraging the Violation of Other Rights

Madison (Point 3) grasped that law was a matter of what we would call "first principles": "[I]t is proper to take alarm at the first experiment on our liberties. . . . The free men of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it. Who does not see that the same authority . . . which can force a citizen [to support one religious establishment], may force him to conform to any other establishment in all cases whatsoever?"

One establishment is a precedent for another. If we can have an establishment of education, then why not an establishment of religion? And if we can consider the former com-

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patible with freedom of education, then why not the latter with freedom of religion? Or: If we were consequently to extend government control to all education, then why not to all religion? The bottom line: If the principles above are to be jettisoned from the ship of state when the law centers on education, where will they be found when it comes round to religion . . . or any other liberty?

In Point 15, the final of the "Memorial," Madison declared that religious liberty "is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us. . . . Either then, we must say, that . . . [the Legislature] may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred[.]"

Over the past ten or so years, the ACLU and its fellow travelers have gained a reputation for being "politicized," for having their civil libertarianism—their commitment to *all* "our fundamental rights"—take a back seat to the imperatives of various left-of-center ideologies. In this case that means sacrificing the civil liberty of full freedom of education to the welfare-entitlement of a "right to an education," among other justifications for "free and compulsory" schooling. It's the fundamental "mixed economy" conflict: freedom versus statism within one system. Recently, however, something happened that put the priorities of these activists to the test. President George W. Bush proposed that "faith-based" (church-affiliated) charities should be eligible to receive federal funding. To a man, they condemned this measure as a violation of the First Amendment's establishment clause. For many, it was probably the only time in their political lives that they ever opposed a social spending program. Still, the principle was, implicitly yet inexorably, set: When the push of civil liberty comes to the shove of welfarism (or any equivalent), it is the latter that must yield. Anyone who doubts the importance of this as a precedent need only conceive the implications were it reversed.

Perhaps there is one other, final thing to conceive—the implications of the ideas of Benjamin Rush, a contemporary of Jefferson and Madison, who may well be the intellectual founding father of the union of school and state:

- Public education will "convert men into republican machines. This must be done if we expect them to perform their parts properly in the great machine of the government of the state."
- "Society owes a great deal of its order and happiness to the deficiencies of parental government being supplied by those habits of obedience and subordination which are contracted at schools."
- "Let our pupil be taught that he does not belong to himself, but that he is public property. Let him be taught to love his family, but let him be taught at the same time that he must forsake and even forget them when the welfare of his country requires it."
- "It is necessary to impose upon [students] the doctrines and discipline of a particular church. Man is naturally an ungovernable animal, and observations on particular societies and countries will teach us that when we add the restraints of ecclesiastical to those of domestic and civil government, we produce in him the highest degree of order and virtue."

Can anyone doubt the consequences if the premises behind these statements were ever applied to the matter of religion . . . or any other liberty? □

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IDEAS ON LIBERTY
AUGUST 2001

Parent Power

Should governments set educational standards? Most people think so.

Underlying the debate over how best to educate is a conflict over human nature and a clash of worldviews.

It is not my purpose to resolve the debate between the education traditionalists and nontraditionalists. Rather, it is to establish which institutional setting is most likely to lead us to discover the best methods of encouraging children to learn. There really are only two choices: a setting based on individual freedom or one based on coercion.

Government is usually discussed euphemistically, but its defining characteristic is its legal authority to use aggressive force. Taxation and compulsory school attendance are quintessential examples.

Considering that all philosophies of education rest on some view of human nature, we must ask: Is this something for government (at any level) to sort out?

Most Americans embrace the separation of church and state on the grounds that something as important and personal as religion ought to be left to private decision-making. The inviolability of the individual conscience is a cherished American principle. Yet decisions about one's children's education are equally matters of conscience. Nevertheless, government routinely makes all the big decisions about education without regard to the preferences and convictions of parents. Such decisions cannot help but impinge on freedom of conscience. From the beginning, the movement to establish tax-financed government school systems created conflicts among people with different worldviews, starting with Protestants and Catholics.

The debates that have taken place over school curriculums—multiculturalism versus Western orientation, evolution versus creationism, phonics versus whole language, traditional math versus new math—have been grounded in diverging views of how children should learn and think. Government-generated standards and curriculums cannot avoid controversy. A noncontroversial curriculum is as chimerical as a value-free education. Thus the claims that a government-adopted curriculum would create solidarity by inculcating children with a common educational experience are highly suspect. What has caused more social division than "public" education?

Outside the Marketplace

Governments operate virtual school monopolies outside the competitive marketplace. That may be taken to mean only that business people do not run the schools for profit. But the competitive marketplace is more than a way to organize production of known products and services according to known methods. In F. A. Hayek's words, it's a "discovery procedure." *Competition enables us to learn things we would not learn other-*

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wise from people we might never suspect of being capable of teaching us anything. This is as true for education as for anything else.

The vogue word in education is "accountability." But this is precisely where government solutions fall down. Accountability to whom? The current administration says the states should be accountable to the federal government. But that is just the sort of artificial accountability that has brought education to its present unsatisfactory condition. We are in roughly the 150th year of an experiment in which governments, not parents, are responsible for education. Teachers and administrators are theoretically accountable to school boards, which are theoretically accountable to state governments. Giving a larger role to yet a higher, more distant level of government hardly sounds promising.

Real accountability means accountability to parents. But that requires separation of school and state, and parents' control of their own money; in a phrase, Parent Power.*

Are there to be no standards for education? It is an unfortunate emblem of our world that alternatives to government services are difficult to imagine—even when there are historical examples to draw on.

We do not face a choice between government standards and no standards at all, any more than we face a choice between government standards for computers and no standards at all. The spontaneous, self-adjusting market process is well qualified to generate standards. And it does so in a way that avoids the pitfalls of the political process.

To the extent that parents want similar things with respect to their children's education—a broadening of horizons and preparation for college and for economic self-sufficiency—the market will furnish them because doing so will produce profits for entrepreneurs. Out of that process will emerge standards. We should expect not one set of standards but competing sets with varying degrees of differences.

Different approaches to education in a competitive market will lead to competition. It is precisely the competition among standards—real-world rivalrous activity, not ivory-tower debates—that will teach us things we would not learn otherwise. The market, moreover, will do what governments cannot do: it will avoid the extremes of dogmatism (one imposed standard) and chaos (no stable standards). At any given time, a manageable number of standards will coexist, giving people stability and predictability, yet no standard will be locked in by legislation, which would threaten stagnation.

Spontaneous Order

Entirely too many people worry about standards in the sense that they believe government must be responsible if the work is to be done. But that betrays a failure to appreciate the vastly complex and useful social institutions—markets and language come to mind—that had no designers. They are called "spontaneous orders," and they feature, among other things, standards that enable human beings to accomplish important things.

There should be no mystery about why all languages have grammars and rules of usage, that is, standards. It's not because government designed and imposed them. It's because people wanted to communicate. Given that wish, a standardless language is about as possible as a square circle. Something like natural selection would have disposed of it very quickly.

Similarly, a free education market that lacked reasonable standards is an impossibility. It would require a large number of parents who didn't wish their children to grow into autonomously functioning adults. In other words, the call for the imposition of standards is an insult to every responsible parent.

The entrepreneurial system gives us the greatest hope of having the best educational institutions possible. We can expect it to offer a wide variety of schools, from traditional to innovative, for-profit and nonprofit, secular and sectarian. Homeschooling would thrive also.

But entrepreneurship has prerequisites: freedom and private property for both entrepreneurs and parents. The way out of the education morass is Parent Power. □

*To my knowledge, this term was first used this way by Melvin Barger in "Parent Power: Can It Help Public Education?," *The Freeman: Ideas on Liberty*, April 1980, pp. 210–17.

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IDEAS ON LIBERTY
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Beijing's "Cruel Choice"

Christopher Lingle

China, like other countries undergoing radical transition, must resolve the political and economic issues that determine its pattern of future development. The search for a workable model has often led to the conclusion that authoritarian rule may be a "necessary evil" as a means for speedy economic development. In this sense, the tradeoff between political freedom and economic prosperity is portrayed as a cruel choice.

Beijing continues to pursue a "dictatorship of the proletariat," obsessed with power that threatens its own economic vitality. Several outcomes of this tradeoff involve collateral damage that is felt in Hong Kong and contributes to instability in Taiwan.

The implied tradeoff between rapid economic growth and political freedom suggests that democracies are at a disadvantage relative to authoritarian or even totalitarian regimes during the transition process. While economic freedom may be required for development of political freedom, the reverse may not be true.

In fact, not only may political freedom not be necessary for economic development; indeed, it may perhaps be an obstruction to economic progress. Reasons cited include the formation of powerful interest groups that demand redistributive policies which reduce long-term economic growth.

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Thus it is widely believed that a continuation of its authoritarian regime can more readily ensure rapid economic progress for China. Presumably, that would be accomplished through the extraction and disposition of savings from a relatively pliant population.

However, there are compelling counterexamples that exist in the real world. Numerous authoritarian regimes exhibit little or no economic success, such as Cuba, Zimbabwe, Burma, Bangladesh, Pakistan, Afghanistan, Iraq, and Iran. Thus neither the imposition of authoritarian rule nor repression constitutes a necessary or sufficient condition for economic growth.

In sum, the visible hand of the interventionist state does not guarantee successful economic development. Policymakers are as fallible as the private decision-makers they seek to replace. This fallibility is to be expected regardless of whether the guiding principles are based on ideology, like communism, or paternalism influenced by Confucianism.

Competitive capitalism joined by a limited democracy can be seen to provide better incentives than authoritarianism through the wider disbursement of a direct personal stake in economic development. Access to personal rewards from involvement in the making of wealth is the source of a strong motivation for individual effort. Increased productivity arising from the incentive structures of liberal capitalism would offset the presumed advantages of coerced accumulation under China's perverse system of "market socialism."

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Of particular interest are the evolving characteristics and role of real entrepreneurs in China. Their growth-promoting innovations go beyond the seizing of opportunities to "buy low, sell high" and to rely on political contacts. True entrepreneurs are by their nature iconoclastic and contrarian; they tend to challenge the status quo, whether the competitive structure of a market or entrenched authority. They oppose government policies that obstruct attempts to expand their economic fortunes. Authoritarian regimes try to control economic activities, often by constructing "entrepreneurs" through the offer of special privileges to cronies. However, only real entrepreneurs generate growth. Their politically created cousins are most interested in restricting competition and in maintaining various aspects of the status quo.

Liberal capitalism also provides the poor with the freedom of social and economic mobility as a means for self-empowerment. Clearly, the middle class is not the only social segment to have a vested interest in promoting greater liberalization of the economy and polity.

Obedient Bureaucrats

Alternatively, China's Leninist system continues to depend on obedient bureaucrats and party cadres that interact with select business interests and other sycophants of the regime. Such an approach to governing bears more striking similarities to fascism than it does to capitalism. Given the frustration in China over current economic problems, it should be clear that "market socialism" is not working.

China's ongoing economic malaise (chronic deflation and uneven growth) is symptomatic of the long-run effects of the gradualist approach to its economic transition policy. As in most authoritarian regimes, the primary purpose of Beijing's extensive controls over the economy is to maintain and to protect the existing structure of entrenched political and economic interests. Somehow the abject failures of central planning were not lesson enough to convince Beijing's technocrats that such controls are counterproductive.

In the end, short-run gains to countries whose leaders opt for the cruel choice of imposing the repressive hand of government intervention will be offset by unintended long-run costs. The economic costs of stunted growth potential will be accompanied by additional social and political costs. At some point China's government must shed its materialist bias and acknowledge that a measure of the national standard of living includes such abstractions as individual freedoms and rights. Not the least of these, of course, are the rights of religious freedom and freedom of conscience.

Survival and success in the emerging open and highly competitive international economic order require flexible institutions and innovative, risk-taking entrepreneurs. China's experiment with authoritarian capitalism is unlikely to meet these requirements. One of the lessons of the Asian financial crisis is that in the attempt to trade political freedom for rapid economic growth, short-run gains mask long-run losses. In China, the cruel realities of the long run are coming into sharper focus sooner than most leaders in Beijing would have liked. □

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The Positive Nature of Risk

by Christopher Mayer

There would be no risk if the future were known and all of one's plans played out exactly as expected. Because of pervasive uncertainty, a variety of risks permeates all human endeavors.

It is a common human desire to want to feel secure, to want to avoid as much risk as possible and live a comfortable, protected life. But different people deal with risk in different ways. Not all people are risk-avoiders.

For example, artists take risks with each work. In his *Lectures on Shakespeare*, W. H. Auden draws a distinction between a minor writer and a major one. This distinction hinges on the writer's appetite for risk-taking and his ability to break new ground. A minor writer (Auden used the example of the poet A. E. Housman) is one who finds his niche and sticks to it. "The minor writer never risks failure," Auden states. On the other hand, the major writer, like Shakespeare, pushes himself to discover new problems and try new things. In a word, the major writer takes risks. According to Auden, "Shakespeare is always prepared to risk failure. *Troilus and Cressida, Measure for Measure* and *All's Well That Ends Well* don't quite come off, whereas almost every poem of Housman does." Yet Shakespeare risked enough so that his successes have earned him almost universal acclaim as a great writer.

The same can be said of musicians. Great jazz artists like Charlie Parker and Miles Davis pushed their art in new and different directions, taking risks when they had no assurance they would succeed. Their experimental play earned them places in the pantheon of jazz immortals.

Gamblers are other examples of people who willingly take risks. In fact, gamblers who frequent the gaming tables create risks in playing various games. Sometimes they are lucky. The tale of Charles Wells is a case in point. In 1891 Wells gained fame by "breaking the bank" at Monte Carlo three times in one year. One evening he played the wheel and left his chips on the number 5, with the odds 36 to 1. The number five came up five times in a row. He walked out with the equivalent of over one million dollars. He was written up in the newspapers and even had a song about him ("The man who broke the bank at Monte Carlo"). Ironically, Wells would die broke.

In any event, whatever happens to the artist or to the gambler happens to him alone (and perhaps his backers, should he have any). In other words, if Shakespeare wrote a clinker, Ben Jonson didn't have to come out of pocket to support him. In a similar way, the gambler who loses his shirt has no claim against sober individuals who choose not to gamble. Conversely, Shakespeare's fame is his alone and the gambler's winnings are his too.

However sensible this arrangement seems, it often does not prevail in the modern world where collectivist thinking is rampant. In real life successful people indirectly support those

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who are unsuccessful. In some cases successful people do this voluntarily by contributing their time and money to charity. But more often, successful people support others whether they want to or not, since their pockets are regularly picked by government officials of every stripe. The government encourages the illusion of a mighty shield that will protect people from their own imprudence and misfortune rather than let them take care of themselves, which would require them to save, to plan, and to be prudent.

The existence of a forced safety net, or a support system not voluntarily funded, warps the normal incentives and changes people's behavior in perverse ways.

Banking and Risk

Look at the banking world. If a bank makes a series of poor decisions that lead to failure, the FDIC stands ready to make good on any losses depositors should suffer. Here we have two problems. The first is that the banker is not held accountable for his losses. And the second is that the depositor is relieved of the responsibility for where he puts his money. All he has to know is whether his bank is FDIC-insured.

This would be like giving your money to Charles Wells knowing that the house will reimburse him for any losses he suffers and that he will in turn reimburse you. Do you think that this would change Wells's behavior? Do you think that he might take some risks that he otherwise might not take? And what if Shakespeare knew that no matter how bad any particular play was, he would get reimbursed for any losses incurred? It is common sense to acknowledge that risk influences behavior.

In more formal terms, a moral hazard is created when the adverse consequences of risk-taking are transferred to a third party and the transfer benefits the risk-taker and harms the third party. Insurance is often cited as a common example of risk transfer. However, most insurance is created in the marketplace and is priced, like all goods and services in the market, by the interplay of buyers and sellers. In other words, insurance is not persistently mispriced. The fact that the FDIC determines the price of insurance necessarily means that it will likely be higher or lower than the market price. Risk will always be too cheap or too dear. Occasionally, perhaps, the FDIC hits the market price. Then the question becomes, why not let the market run this insurance program?

Then again, deposit insurance is really not insurance at all. Just because the government calls it insurance doesn't mean it is. No other industries have insurance like it. When Amazon or General Motors or Dell takes a loss, no one reimburses the company for it. Entrepreneurial risk is inherently uninsurable. Insurance protects against certain kinds of risks, but it doesn't underwrite failure.

Behavioral Boundaries

If the theory of moral hazard is correct, then risk—the possibility of loss, the element of chance—serves a useful purpose in changing behavior. Risk can keep people within certain behavioral boundaries.

Few would dare cross a busy street without at least looking to see if any cars were coming. The risk of being hit and its attendant consequences are simply too great. People modify their behavior to deal with these risks. They mitigate them, in this case, by looking both ways before crossing the street. Further, a pedestrian may choose to cross only when the light is in his favor. These are some of the ways people deal with risks of crossing a busy street. The risk of being hit forces them to think before they act.

In banking, the theory of moral hazard is no different. Benjamin Esty of the Harvard Business School conducted a valuable study on the impact of contingent liability on commercial bank risk-taking.* Esty looked at the banking world prior to deposit insurance. From the passage of the National Banking Act of 1863 until 1933 regulators imposed double liability—a form of contingent liability—on national bank shareholders. Esty explains: "Under this system, shareholders were doubly liable in that they could lose both the market value

*"The Impact of Contingent Liability on Commercial Bank Risk Taking," *Journal of Financial Economics*, February 1998, pp. 189–218.

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of their shares and, through assessment, an amount equal to the par value of equity to cover creditor obligations including deposits and other debts." Most banks at the time had a par value of $100 per share. So, as a shareholder, if your bank went belly up you would lose the market value of your stock *and* you could be assessed another $100 per share to cover depositor and other losses. Do you think that this would change your behavior as an owner of a bank?

The states passed their own versions of contingent liability as well. Some had single liability. California had *triple* liability. And regulators were effective at collecting assessments. During the years 1865 through 1934, the comptroller of the currency collected 51 percent of the assessments. The fact that these assessments were creditable is shown in the behavior of the banks and their risk-taking activities. As Esty notes, from 1865 to 1933 voluntary bank liquidations accounted for over 70 percent of all bank closures. The states had similar experiences with state-chartered banks.

In an FDIC world there is no incentive for banks to close or liquidate as soon as trouble arises. And since bank shareholders have limited liability, their appetite for risk is greatly enhanced. Banks of the nineteenth century were fortress-like compared to their late twentieth-century counterparts. They had reserves of gold and silver, and by law their reserves had to cover 25 percent of deposits. Some banks, like National City, carried reserves to cover 60 percent of deposits.

This is not to recommend that contingent liability is the way to enforce bank soundness, but rather to illustrate how the risk of loss changes behavior and forces prudence in a way that FDIC insurance lacks.

Other Interventions

Deposit insurance is only one commonly known way that governments try to collectivize and minimize risk. They have numerous other programs and guarantees that seemingly lower risk. Another example is the Small Business Administration (SBA), which provides banks with a partial guarantee of loans made to certain favored classes. If a minority-owned business, financed under an SBA loan, fails, the SBA stands in to absorb a portion of that debt. This encourages the banks to take risks that they otherwise would not take.

Removing or shifting risk by government fiat is not a panacea. Genuine risk serves a useful purpose. Forcing the shifting of risk to third parties, in essence creating moral hazard, leads to the perverse outcome that the risk one hoped to avoid is actually recreated in the form of the false promises made by the welfare state. □

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Why Do Immigrants Own Inner-City Stores?

by Richard D. Marcus

As a business teacher I occasionally receive questions from students that I can't immediately answer. A student recently asked, "Why are so many inner-city stores owned by foreigners?" This problem calls for economic analysis. The answer involves the nature of incentives and opportunity costs in competitive industries.

Perhaps the student's casual observation requires some empirical confirmation. Such a study would likely show that proportionally more convenience stores in the inner city have first-generation immigrant owners than in the suburbs. To move the question along, I will presume that the student's observation is correct.

Leaving one's native country is a big decision. Those who set out for the New World are highly motivated to achieve success. Consequently, first-generation immigrants are self-selected to be risk-takers with above-average ambition. Their manifest acceptance of the risks, hardships, and long hours of entrepreneurial commerce set them apart from other domestic residents. What's more, the ability to be perfectly fluent in English is less important in retail operations than in other fields.

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Hence, it is really rather expected that immigrants would work in the openly competitive industry of retail. But where? The rental cost of space is, to a large extent, a function of safety, location, and affluence of the neighborhood. It takes no stretch of the imagination to suppose that retail space in older inner-city locations is cheaper than in the suburbs. The risks that stores will fail make most national chains and franchises avoid these locations: Seven-Elevens and Open Pantries move to higher-priced locations. But the relatively low costs of starting a business and the lack of competition from national chains in these locations are attractive to immigrants starting businesses.

But why don't native-born residents invest there? To an economist, the natural answer is that the opportunity cost of time, money, and effort must be too great. They prefer employment with firms that offer health insurance, paid vacations, and moderate hours of work. Why work in your own retail outlets 90 hours a week for the same money you can earn working at a 9-to-5 job?

The economic way of thinking starts with a presumption that what we observe is happening for a reason. The reasons tend to involve economic incentives and opportunity costs. □

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Economics

The High Cost of Command and Control

We may not all agree on how much pollution to reduce, but we certainly should agree to reduce it as cheaply as possible. Since cleaning up at least cost is exactly the same as maximizing the cleanup for any given cost, cost minimization should appeal even to those who dislike thinking about the cost of protecting the environment.

I pointed out last month that reducing pollution at least cost requires that (1) every polluter reduce its pollution as cheaply as possible and (2) the marginal cost of pollution reduction be the same for all polluters. While satisfying these two conditions is an ideal that can never be fully achieved, the U.S. Environmental Protection Agency (EPA) relies almost completely on a policy approach that guarantees that the cost of protecting the environment is much higher than necessary. The EPA favors a "command and control" approach that relies on directives (or commands) for how, and how much, polluters control their pollution. I shall point to the problems with this approach in this column, which provides a basis against which to compare the market approach I shall discuss in future columns.

The EPA can never acquire all the information necessary to know the cheapest way for each of a large number of polluters to reduce its pollution. And even if by some miracle it did have the information, it wouldn't use it properly for reasons that I will explain. Not surprisingly then, the EPA regulations do not take different circumstances into account. Instead, the EPA typically imposes uniform regulations on very different situations, making it unlawful for polluters to control pollution in the cheapest way possible. Imagine the federal government's taking over shoe production and making all shoes the same size. Ridiculous, right? But no more ridiculous than some of the consequences of the EPA's "manufacturing" one-size-fits-all pollution-control commands.

For example, one EPA regulation mandated that 30 percent of the organic matter be removed from the inflow into sewage treatment plants, probably a defensible regulation in most cases. But not in Anchorage, Alaska, which is blessed with some of the purest water in the world because it comes from nearby glaciers. Anchorage officials asked the EPA for a waiver, since its untreated inflow was cleaner than the treated outflow in most jurisdictions, and removing 30 percent of almost nothing would require building a new $135 million treatment plant. The EPA refused to grant the waiver. So Anchorage officials had fish guts dumped into the water and then removed most of them—surely exceeding the 30 percent requirement by a wide margin. Anchorage taxpayers saved buckets of money and EPA mandates were satisfied, but the water was dirtier than before.[1] Such one-size-fits-all regulations obviously prevent polluters from protecting the environment in the most cost-effective ways. The

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people closest to the situation, who know the most about reducing their pollution, should be allowed to utilize that knowledge to reduce pollution as cheaply as possible.

If the EPA quit telling people how to reduce pollution and simply told them how much to reduce, each polluter could use its localized knowledge to reduce pollution in the cheapest way possible. This would be an improvement over the prevailing practice of imposing uniform approaches to pollution control. But it takes more than allowing people to reduce pollution at least cost to minimize the cost of reducing pollution. The EPA would also have to require a pattern of reduction that equates the marginal cost of reduction for all polluters.[2]

The EPA could never collect all the information necessary to determine how much each firm should reduce pollution to achieve the least-cost pattern. The information is too dispersed and sensitive to local circumstances, and too subject to change, to be collected, processed, and updated in order to be appropriately considered by the EPA. Therefore the agency operates in an informational vacuum and couldn't fine-tune its commands to fit local circumstances even if it wanted to. And it wouldn't want to. Even if the EPA had all the information necessary to determine the least-cost pattern of pollution reduction, political considerations would insure that it would not be used properly.

Arbitrary and Unfair?

The least-cost pattern of reduction will generally require that some polluters (low-cost reducers) reduce a lot while others (high-cost reducers) reduce very little. This will seem arbitrary and unfair, since the implications of differences in marginal costs of pollution reductions are hard to explain in concise and compelling language. (If such explanations were easy, the marginal value of economists would be even lower than it already is.) So any attempt to force some firms to reduce pollution a lot more than others is sure to motivate polluters to lobby politicians and bureaucrats to reduce their control requirements. These lobbying efforts will be not only expensive, but effective as well, and the result will have little to do with reducing pollution economically. For example, a firm that should reduce its pollution a lot because it can do so cheaply may be in a district whose congressional representative chairs a committee that can influence the EPA budget. Does anyone believe that in this situation the EPA would put the goal of least-cost pollution reduction ahead of its budget? Of course not!

The evidence is clear that the command-and-control approach of the EPA misses opportunities to greatly reduce the cost of achieving a given level of pollution control. For example, it has been estimated that the marginal capital cost of removing a kilogram of biological oxygen demand (BOD)—a standard measure of water pollution—varies from one penny for one firm to $59.09 for another. In other words, if the first firm reduced BOD by one kilogram more while the second reduced it by one kilogram less, $59.08 would be saved with no degradation in water quality.[3] The saving would add up as the first firm continued to substitute BOD reduction for the second until each had the same marginal cost of reduction. The total saving can be substantial in each of a large number of pollution control situations.

Next month I shall explain why politics favors command-and-control approaches to environmental policy, and why it is often the failures of command and control that make it politically popular. But are there better policy approaches? The answer is yes, which I shall explain in the coming months. □

1. See Thomas J. DiLorenzo, "Unfunded Federal Mandates: Environmentalism's Achilles Heel?" Contemporary Issues Series 62, Center for the Study of American Business, December 1993.

2. Obviously, this condition has to be satisfied for each type of pollution, with possible adjustments made when the damage done by a particular pollutant varies, depending on where it is discharged.

3. This and other examples are discussed in Roger Meiners and Bruce Yandle, eds., *Taking the Environment Seriously* (Lanham, Md.: Rowman & Littlefield Publishers, Inc., 1993), Chapter 8.

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The Sorry Record of Foreign Aid in Africa

by Jim Peron

For almost half a century the countries of Africa have been awash in aid. Hundreds of billions of dollars have been given to African governments. More billions were lent to these same governments. Countless tons of food have inundated the continent, and swarms of consultants, experts, and administrators have descended to solve Africa's problems. Yet the state of development in Africa is no better today than it was when all this started. Per capita income, for most of Africa, is either stagnant or declining.

Just a few years ago a World Bank report admitted that 75 percent of their African agricultural projects were failures.[1] Other aid agencies weren't any luckier. Operation Mils Mopti in Mali was supposed to increase grain production but the government imposed "official" prices on the grain and had to force farmers into selling their crops at these below-market rates. As a result grain production fell by 80 percent.[2] In Senegal $4 million was spent to increase cattle production in the Bakel region. But in the end only 882 additional cattle were being reared there.[3]

In Northern Kenya, Norwegian aid agencies built a fish-freezing plant to help employ the Turkana people. But after completion it was discovered that the plant required more power than was available in the entire region.[4] In another aid fiasco, $10 million was spent in Tanzania to build a cashew-processing plant. The plant had a capacity three times greater than the country's entire cashew production, and the costs were so high that it was cheaper to process the cashews in India instead.[5]

In South Africa over $2 million donated by the European Union was used to stage an "AIDS awareness" play, *Sarafina II*. While the funds provided a luxury bus for cast and crew, they did little to educate the public about AIDS. AIDS experts condemned the play as a waste of money—it consumed 20 percent of South Africa's entire AIDS budget—and said it contained inaccurate information as well. A heavily promoted showing of the play in Soweto was attended by fewer than 100 people. The play was pulled but the funds were never recouped. The EU insists that none of its funds were used on the project, but then-Minister of Health Nkosazama Zuma disputes that.[6]

Debacles such as these are almost benign. But foreign aid is also being used in patently destructive, and sometimes genocidal, ways. The Marxist dictatorship of Ethiopia's Mengistu Haile Mariam was a major recipient of donor funds, a portion of which was used to forcibly resettle large segments of the population. One Ethiopian official said: "It is our duty to move the peasants if they are too stupid to move by themselves."[7] Donor funds, earmarked for famine relief, were instead used to buy trucks for the resettlement scheme. Relief aid was also intentionally kept

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away from some of the most severely affected areas because it suited Mengistu's regime to starve its opponents. Relief ships were held for ransom and charged $50.50 per ton for permission to unload their aid, some of which was confiscated to feed the army. The *New York Times* reported that aid officials believed that Mengistu's regime sold some of the food aid on the world market to finance the purchase of arms.[8]

But Ethiopia is not the exception. The Congo also sold donated food supplies and used the funds to purchase an arms factory from Italy.[9] The more peaceful Mauritius took donated rice, which it insisted be of high quality, and diverted it to tourist hotels.[10] Donated money is just as likely to go astray. President Mobutu of Zaire managed to build a fortune in his Swiss bank account that was estimated as high as $10 billion.[11] Kenyan human-rights activist Makau Wa Mutua lamented: "Since independence in Africa, government has been seen as the personal fiefdom a leader uses to accumulate wealth for himself, his family, his clan. He cannot be subjected to criticism by anyone, and everything he says is final."[12]

Zimbabwe's Robert Mugabe is notorious for his extravagant shopping trips to Harrod's even if he has to confiscate planes from the national airlines to take them.[13] Mugabe's regime has used systematic violence in attempts to stay in power. And according to the *Johannesburg Star*, his thugs have "looted" aid to help finance their attacks. Some $1 million is supposedly at stake. Asger Pilegaard, the EU delegation head in Zimbabwe, has demanded an investigation saying: "We cannot accept that the humanitarian aid financed by European taxpayers is not arriving to the people for whom it was originally intended."[14]

And while hungry faces are used on posters and in media reports to sell the virtues of foreign aid, it is the hungry who rarely see any of the funds. Poverty may be used to justify the programs, but the aid is almost always given in the form of government-to-government transfers. And once the aid is in the hands of the state it is used for purposes conducive to the ruling regime's own purposes.

Since moving to black-majority rule in 1980 Zimbabwe has regularly received financial aid to promote "land reform." For 20 years the government used these funds to buy up land, which when "reformed" typically ended up in the hands of the ruling party's elite. Land that was actually redistributed was turned into communal farms and given to peasants who didn't have the know-how to run them. Many of the farms were pillaged for any saleable items and then deserted. About one-fourth of the communal farms are so unproductive that they require food aid just to prevent the farmers themselves from starving.[15]

European Support

Marxist autocratic regimes were often heavily financed by European governments—especially when those governments were in the hands of left-of-center parties. Italian journalist Wolfgang Achter reported that the Italian Socialist Party gave heavy financial backing to Somalia's Marxist government of warlord Siad Barre, who used the funds to obtain arms and military advisers.[16] Journalist Michael Maren reports that for ten years before the 1992 famine, Somalia was the "largest recipient of aid in sub-Saharan Africa," but that most of the funds were "lost in the corrupt maze of the Somali government's nepotistic bureaucracy."[17] Italy alone sent over $1 billion to fund projects in Somalia from 1981 to 1990 even though the regime was murdering its opponents. No wonder the *New African Yearbook* called Somalia "the Graveyard of Aid."[18]

The *New York Times* reported that when President Julius Nyerere of Tanzania announced a radical Marxist program, "many Western aid donors, particularly in Scandinavia, gave enthusiastic backing to this socialist experiment, pouring an estimated $10 billion into Tanzania over 20 years."[19] Swedish economist Sven Rydenfelt wrote: "A decade of socialist agricultural policy had been sufficient to destroy the socio-ecological system."[20] The World Bank says that from 1965 to 1988 the Tanzanian economy shrank on average 0.5 percent each year and that personal consumption dropped by 43 percent.[21]

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The Marxist regime of Samora Machel in Mozambique similarly destroyed that country's agricultural output through price controls.[22] But that was just one African nation among many that used this policy—all with the same disastrous results. Professor D. Gale Johnson, in testimony before a U.S. House Subcommittee, said that during the 1950s and 1960s per capita African food production remained relatively constant, but dropped dramatically beginning in the 1970s. "The decline in per capita food production was not due to a lack of resources," said Johnson, "but to many factors that were primarily political in nature."[23]

Most of the problems that African nations face today are self-inflicted. Africa is the last major bastion of heavily regulated markets. This has lead to stagnancy and decline. The continent itself is rich in resources, but the incentive to produce has been destroyed by government policies. The West is quite aware of this, but is too timid to do very much about it, and the aid bureaucracy keeps on delivering funds no matter how bad things get. Mengistu continued to receive aid while intentionally starving thousands and thousands of his citizens to death.[24] Mugabe slaughtered thousands of opponents in the Matabeleland region of Zimbabwe, but aid continued unabated.[25] Even when General Sani Abacha's military regime in Nigeria, in the face of world opinion, executed human-rights activist Ken Saro-Wiwa, virtually nothing happened. Various Western governments protested by withdrawing their diplomats, but within a few months they were all back in place. The World Bank has admitted that "almost all" loans are fully disbursed to recipient nations "even if policy conditions are not met."[26] In a 1986 report it said that there was no evidence to show significant movement toward freer markets due to aid donations or policy restrictions.[27]

Various critics have repeatedly pointed out that foreign aid not only doesn't encourage reform but often stifles it. Development economist Peter Bauer has said there is an inherent bias of government-to-government aid toward state control and politicization. "Foreign aid," he argues, "has contributed substantially to the politicization of life in the Third World. It augments the resources of government compared to the private sector, and the criteria of allocation tend to favor government trying to establish state controls."[28]

Precolonial Period

Prior to colonialization Africa had no such thing as the nation-state. It was a collection of hundreds and hundreds of distinct tribal cultures, many of which had long histories of antagonism toward one another. The European colonies merged these diverse tribes into the modern nation-state, which, as long as the central government was controlled by "neutral" Europeans, kept the conflicts to a minimum. But when European intellectuals abandoned colonialist theories for a Marxist-Leninist theory of imperialism, the Europeans pulled out almost overnight.

What they left behind was a series of artificial nation-states, which now exacerbated age-old tribal conflicts as each group attempted to grab the reins of power before their enemies could. Meanwhile Europe decided to play the role of financial benefactor and poured aid into Africa. With aid as the primary source of economic power, the role of the state was increased relative to civil society and private industry. All this funding made statist solutions to problems all the more appealing since they could be financed with further grants. Bauer has noted that one result of that process was that the best and brightest in African countries were drawn to the state, like moths to the flame, instead of into private development.

Even when aid does reach the consumer it often comes at a high price for local producers. It is typically forgotten that most of the recipient countries have local industries and farms that often cannot survive the influx of "free" goods. The late economist David Osterfeld argued: "Aid has in many places actually destroyed the possibility for sustained economic growth by driving local producers, especially farmers, out of business."[29] Somali Abdirahman Osman Raghemade made the same point regarding medical aid: "Look into drug donations and how they

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destroyed our developing health system. We once had so many pharmacies here. Pharmacists knew their jobs. Now there are people handing out drugs who are not trained because of the donated drugs from the international community that are so cheap."[30] A priest in Tanzania reported that farmers in his region simply stopped producing food because of the availability of free donated food.[31] Osterfeld pointed out that a study of the U.N. World Food Program's response to 84 emergencies showed "that it took an average of 196 days to respond" and that the European Economic Community took an average of 400 days. Osterfeld quotes agricultural expert Dennis Avery as saying that aid was "too late to relieve hunger but in time to depress prices for local farmers who tried their best to respond."[32]

Double Standard

While foreign aid may on the whole be destructive to Africa, that does not mean the West is powerless to help impoverished Africans. But before it can accomplish any good in the region it will have to abandon its double standard. Westerners are terrified of criticizing a black-ruled country lest they be called racist. Ghanaian economist George Ayittey complained: "White rulers in South Africa could be condemned, but not black African leaders guilty of the same political crimes."[33] Only when African governments are treated on the same moral basis as all other governments will reform and development be possible.

Some have called for the forgiveness of African debts. This would not be a bad thing, but it is quite useless if debt forgiveness is followed by more loans and aid as demanded by many African governments. It has probably reached the stage where debt repayment is impossible anyway. The economies of most African countries cannot produce enough to pay the debts, and never will as long as the same disastrous economic policies are continued.

Neither should the West be taken in by South Africa's President Mbeki and his MAP (Millennium Africa Recovery Program). Mbeki speaks of development and trade—not aid—but then makes clear that he actually expects the West to continue pumping billions in aid into Africa. He wants this aid to come officially without conditions. Considering how "conditional" aid has been spent in the past, the idea of "unconditional" aid in the future is actually frightening. Mbeki's plan also calls for the money to be spent regionally and not nationally. Mbeki clearly sees himself as the primary conduit through which aid will flow.

For some time the African National Congress government in South Africa has been looking to create what appears to be an African hegemony controlled by South Africa—the invasion of Lesotho recently by South Africa was one indication of that desire. And Mbeki has spent billions to purchase massive amounts of sophisticated weaponry for the express purpose of intervening in the rest of Africa.

Mbeki also told the World Economic Forum in Davos, Switzerland, that MAP aid would be used "to strengthen the capacity" of African states that he believes are too weak. Instead he envisions a continent-wide system of centralized planning run by strong national governments. He promises that Africa will rein in the dictators, yet Mbeki himself gave tacit support to the violence engineered by Mugabe's regime in Zimbabwe.[34] Mbeki's objective is the last thing Africa needs, and this plan is another reason to end Western aid and loans.

What would be far more beneficial to African development would be the lowering of trade barriers. But African farmers will never be able to compete in the world market as long as Europe, for instance, continues to shower subsidies on their own spoiled farmers. Various protectionist groups in the United States, like the trade unions, are pushing for international treaties that include costly "environmental" and "labor" provisions for developing countries. While they cry crocodile tears about the environment and the state of working conditions for the poor of the Third World, they actually seem to be trying to limit competition from those same people. The net result will be a loss of jobs in poor

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countries in favor of highly paid unionized labor in the rich nations.

The inescapable fact is that African governments are destroying their own economies—often with aid from the West. And these same governments simply refuse to listen to advice given by non-Africans. Aid will continue to be misspent and good advice will continue to be ignored until the African leaders learn, on their own, what results come from their interventions. The only option for the West is one of benign neglect. Bring the consultants, experts, and advisers home and end the aid and the loans.

Trade barriers should be dismantled and African business permitted to compete as it can. One good business contract is worth more to Africa than a thousand consultants, and one new factory has more value than a hundred million dollars of aid. In the end, Africa will have to solve its own problems.□

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You've Got Mail—and Now We Have It Too

by Adam Young

On March 2 it was revealed that for years the government of Canada has been randomly opening the incoming mail of Canadian citizens and copying the contents into a central database—all in the name of fighting illegal immigration. At Canada Post facilities all across the country, federal agents routinely open letters and parcels originating from abroad that weigh more than 30 grams (1.06 ounces) in the battle against people-smuggling and "international criminals."

Customs officials regularly pass along the information they find to other government departments. In some cases customs will confiscate documents and send them to other departments; in others, documents are merely copied and sent along, while the original mail continues on to the addressee. Officers are not required to obtain any warrant before opening and photocopying the material.

Citizenship and Immigration Canada (CIC) has created a centralized database that catalogs the documents and information passed along by customs; the database can be accessed by immigration officials all across the country.

Canadian customs officials have admitted that they open packages randomly as they come into the country, and CIC officials have also admitted that they routinely receive documents from customs inspectors, but continue to claim that the measures are needed to police migration into Canada.

Canada's federal privacy commissioner, George Radwanski, criticized Canada Customs and has now launched an investigation into the way the mail is being "inspected." "Opening people's mail, particularly on a large scale without benefit of a warrant, is not a good or attractive thing." said Radwanski.[1]

To most people, his response should be striking because of what it is missing: namely, a flat-out statement that this sort of activity by government agents is illegal. Sadly, in Canada, it is not. In 1992 the government gave itself the legal approval to open mail at all border and customs checkpoints. It may not be a good thing, or an attractive thing, but in Canada it is a perfectly legal thing.

The immigration department was given the authority to begin collecting such information in a barely publicized amendment to the Customs Act, which was passed by Parliament in 1992 in a favorite tool of politicians—an omnibus bill. Before 1992 Customs could only seize goods if it suspected their transportation was a violation of the Customs Act. With the new amendment Customs Canada inspectors are authorized to open mail that weighs more than 30 grams *without a warrant* and are permitted to seize goods, including parcels and packages, if a customs officer suspects a violation of "any Act of Parliament."

This little-known—at least until now—legislative change authorizes Canada Customs officers to act as agents for the intelligence branch of CIC in its business of identifying,

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intercepting, seizing, and/or copying "suspect" mail and courier packages.

A training manual for immigration intelligence officers who record the details of "inspections" explains that the objective is "the creation of a national database relative to documentation being sent in the mails or by courier services internationally." This training manual, which was released with several sections censored, was obtained by Richard Kurland, an immigration lawyer, using the Access to Information Act. The 24-page manual instructs agents to record names, birth dates, family information, destinations, and travel histories, and to describe any other documents seized. If a package contains travel documents, it recommends recording airline tickets, baggage tags, and seat numbers. The manual also says that the database is scheduled to be upgraded with digital scanning capabilities, allowing officials to enter photographs and text images.

Clearly Marked?

Canada Post claims that any letters and packages that have been opened are clearly marked so the recipients know their contents have been inspected. But some immigration lawyers say that they've suspected for a long time that their mail was being opened without notice. Several immigration lawyers from across Canada say they have discovered their mail—especially correspondence with clients—had been opened, and some say that they believe they are being targeted by Immigration Canada. They insist they were never told that their mail was being opened, whether information was kept or copied, or why.

Kurland believes his mail has been opened regularly for years. He says his mail has been opened so frequently that his colleagues would usually gather around him to see how his latest packages had been stamped or repackaged. "We don't let the government tap our phones without permission from a court. Why should it be any different with the mail?" Kurland asked.[2] He said that there is nothing to stop CIC from expanding their interception of letters to any group of Canadians. "This is not about immigrants; they can open the mail of all sorts of people. How do they choose whose mail to open? Who knows?"[3]

Another immigration lawyer from Montreal said that once when she inquired about a late courier package she was told by customs that they made random checks of mail and photocopied any documents involving immigration or tax issues and then sent them on to the appropriate federal department. A Vancouver immigration lawyer, Elizabeth Bryson, said that mail from the same client was held up twice when it was opened by customs officials. On the second occasion the package of letters, applications, photographs, and copies of documents was expressly marked as privileged and confidential communication between a client and a lawyer. She said she was told by a customs official that they opened mail based "on a roster to view documents" and did not target her or her client specifically.

"From what they say, it seems they are on fishing expeditions in the hope of finding something," Bryson remarked. "How can I promise my clients confidentiality if there is a government agency, without any reasonable basis, that is opening my correspondence?"[4]

"I'm not 100 percent sure what this has to do with [people] smuggling at all, because the documents are being sent to people in Canada," said Joyce Yedid, a Montreal lawyer whose own clients' documents have gone missing or arrived unsealed. "They're not being sent for any other purpose, so I don't see the connection. This is a non sequitur." Yedid also said that mail addressed to her at her law office has also been opened.

Yedid mentioned years of frustration trying to determine who intercepted her clients' mail and where it went. She also questioned the legality of the whole procedure. "My clients have told me that some of these envelopes were clearly marked as being covered by solicitor-client privilege," she said. "To the best of my knowledge, they have no right to open these things."[5]

The Immigration Act allows officials to seize documents at ports of entry such as airports or harbor ports. But with the release even of the censored version, the intelligence manual acknowledges what immigration

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lawyers have long suspected—that the federal government has been seizing personal mail and keeping it on file.

A CIC spokeswoman, Danielle Sarazin, admitted the department regularly receives documents seized by customs officials, but defended the whole practice with the claim that it was a necessary measure against the increasing frequency of document fraud and false refugee claims. "The whole purpose of seizing mail is to preserve program integrity," she said. "What we want to do is take fraudulent documents out of circulation. We also want to seize documents that can be used to effect the removal of people who should not be in Canada."[6]

Questionable Packages

Sarazin went further and reassured Canadians that "Immigration knows what kinds of packages are questionable, so we'll share that information with Customs."[7] She also claimed that only immigration staff members with special clearance are allowed access to the central database and that CIC provides customs officers with the profiles of suspect pieces of mail. She could not, however, identify the precise criteria that Customs uses to seize immigration-related mail. She also said she didn't know if correspondence between clients and lawyers, or others, was kept by CIC, but insisted that there is no attempt to interfere with or subvert the legal process.

The spokeswoman for the Canada Customs and Revenue Agency, Colette Gentes-Hawn, said she couldn't comment specifically on the allegations made by the lawyers, but acknowledged that Customs regularly opens mail at random. "Most packages that are opened at the border are those that seem suspicious for one reason or another, but "we do enough of a plain random [search] so we know what's going on," she said. "No warrant is necessary and a report is filled out only if something illegal is found. Otherwise, the contents are repackaged and stamped opened by customs."[8]

She said letter-sized envelopes under 30 grams usually go untouched, but that some larger ones are opened with an attempt to screen out contraband. "If the package is from Colombia, obviously that says something. If it's from France or Holland, there could be ecstasy in there."[9]

According to the Canadian Broadcasting Corporation, the cabinet minister responsible for Customs, National Revenue Minister Martin Cauchon, couldn't explain to reporters "why some mail was being copied and sent to other government departments. He walked away in the middle of an interview returning about five minutes later with an explanation. Cauchon said his agents refer the contents of packages to other government departments if they find any evidence of criminal activity."[10]

This discovery of criminal activity follows the invasion of property required to make the "discovery" in the first place. One crime legitimizes another. Supposedly, Customs officers can open mail only if they "feel" that it might contain something illegal, like drugs, but the Act requires that officials have only "reasonable grounds" to believe the contents of a parcel "might" be illegal. Why then even bother to specify that only parcels above 30 grams are fair game?

Private-Sector Collection

For comparison, consider how the government treats the information it controls with how the government requires the private sector to treat its consumer information. On January 1, the act of governmental hypocrisy called the Personal Information and Electronic Documents Act became law. It requires airlines, telephone companies, banks, and other federally regulated organizations to specifically ask customers for permission before taking down their personal information. They must also tell customers exactly why they need it and who will see it, and ensure the information is protected.

This legislation allegedly establishes the right in Canada to protection of personal information. Except when it comes to mail, apparently.

Originally created to instill consumer confidence in the security of electronic commercial transactions, the Act is so strict that an

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organization is forbidden to use personal information for anything other than the purpose originally specified. If the organization wants to use the data for something else, it has to ask permission again.

This Personal Information Act sets up a system of policing to protect consumers from the dire consequences of junk mail. First, a person must take a complaint to the organization in question. If that doesn't work, the complainant can write to the federal privacy commissioner, who then has an entire year to file a response report with his recommendations to the organization about what it should do. To make this recommendation, the privacy commissioner has the power to subpoena witnesses or obtain search warrants. From there, a person can decide to take the matter to federal court.

There is no dollar limit on the amount of the fines the court can impose on a business or institution.

Shouldn't all this apply to the state's vastly more pernicious collection and cataloging of data on its citizens?

One has to ask what is the greater threat to privacy: the latest AOL carpet bombing of North America or the state's confiscating your mail and copying the contents into a centralized state database.

Worst of all, perhaps, is that this invasion of privacy and confidentiality by the state was a one-day news story. Where is the outrage? This is proof yet again of Canadians' timid submission to political power. □

1. "Mail opened, copied and sent to bureaucrats," March 3, 2001, Canadian Broadcasting Corporation Web site, http://cbc.ca/cgi-bin/templates/view.cgi?category=Canada&story=/news/2001/03/02/privacy_mail010302.
2. Campbell Clark and Mark MacKinnon, "Customs draws fire for opening private mail," Toronto *Globe and Mail*, March 2, 2001.
3. Charlie Gillis, "Federal officials opening private mail," *National Post Online*, March 2, 2001, www.nationalpost.com/.
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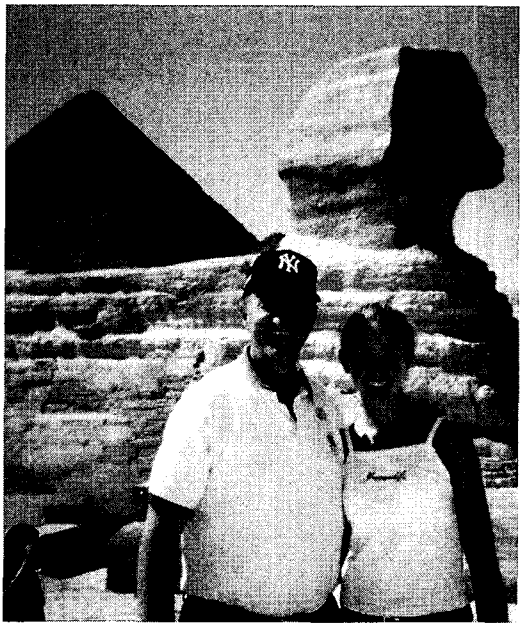
IDEAS ON LIBERTY
AUGUST 2001

Whatever Happened to the Egyptians?

"Governments are generally reluctant to admit mistakes and to change mistaken policies until much harm has been done."
—P. T. BAUER and B. S. YAMEY[1]



Mark Skousen and daughter Hayley in Egypt earlier this year.

In *Whatever Happened to the Egyptians?* (American University in Cairo Press, 2000), a popular book in Egypt, author Galan Amin raises a good question. Thousands of years ago Egypt was the birthplace of one of the world's greatest civilizations, with remarkable advances in architecture, astronomy, mathematics, and economics. The pharaohs ruled the world for centuries.

But today Egypt is a fallen nation. On our arrival earlier this year at the port of Alexandria, once the "city of dreams," we saw garbage and dust scattered profusely on the public highways. Arriving in Cairo to see the ancient pyramids, we saw filthy canals, undrinkable water, dire poverty, noisy traffic, teeming millions, incessant vendors, and more dust.

I picked up a copy of a guidebook on what it's like for a Westerner to live in Cairo. Author Claire Francy lists so many shortages that she urges foreign residents to bring the following with them: answering machine, major appliances, computers, modems, printers, telephones, fax machines, cosmetics, flashlights, pantyhose, wines, books in English, clothes, and shoes. Yes, shoes. "In a city with nearly as many shoe stores as feet, it is almost impossible to find decent shoes."[2] Oh, the joys of import-substitution laws!

And yet Egypt has tremendous resources: oil, cotton, some of the best fertile land in the world along the Nile Valley, a first-rate irrigation system, the Suez Canal, and a huge labor force (nearly 70 million and growing rapidly). Yet true unemployment is 20 percent, and underemployment is endemic. Egypt suffers from a huge "brain drain," with 2.5 million Egyptians working abroad. The nation has illiteracy rates of 66 percent among women and 37 percent among men. It imports half of its food. After Israel, this Arab-African nation is the highest recipient of U.S. foreign aid in the world.

Mark Skousen (www.mskousen.com; mskousen@aol.com) is an economist at Rollins College, Department of Economics, Winter Park, FL 32789, a Forbes *columnist, and editor of* Forecasts & Strategies. *His new book,* The Making of Modern Economics, *is available from Laissez Faire Books, 800-326-0996.*

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Islamic Economics

What's the cause of this economic collapse? A few blame their Islamic religion for their troubles. Over 90 percent of Egyptians are Sunni Muslims who, critics say, pray too much (five times a day), are overly generous to the poor (and thus support a socialistic welfare state), bear too many children (Egypt has one of the highest birthrates in the world), and suffer an excessive financial burden (in the practice of providing housing for their children as a marital dowry). Egyptians are constantly celebrating holidays, among them the month-long Ramadan consisting of daytime fasting and nighttime feasting, when business activity becomes erratic.

But religion is not the true cause of Egypt's struggles. The real culprit is socialist interventionism in the economy. As one unnamed economist states, "The Egyptian economy bears the legacy of economic policies dating from the 1950's which were motivated by concern for equity and assistance to the poor. These policies were characterized by price regulation, subsidization of consumer goods, a dominant public sector and state control."[3] When Gamal Abdel Nasser gained power in 1954, he established a "democratic socialist state," nationalized everything under the sun (including the local beer company), and dramatically increased government control of the economy. Moreover, under a Napoleonic code, Egypt suffers from a regulatory nightmare of paperwork and bureaucracy.

One of the most harmful policies in Egypt has been import-substitution laws—the use of tariffs, quotas, subsidies, and restrictions to protect and promote local production of all kinds of consumer goods, from shoes to toothpaste to automobiles. This form of protectionism has been popular in Third World countries since development economists such as Gunnar Myrdal and Paul Rosenstein-Rodan claimed that import restrictions would stimulate domestic industry and employment. In Egypt, for example, the U.S. government spent roughly $200 million to help Egypt create a domestic cement industry, even though cement could be obtained more cheaply abroad.

Such policies have proven counterproductive. Today Cairo is covered with dust caused by the local cement factories. Egypt's import-substitution laws have created shoddy workmanship and above-market prices in shoes, appliances, and consumer products. Today most economists have changed their mind about import-substitution laws, admitting that they stifle growth. They point to the rapid expansion of East Asian nations, which eschewed import substitution and have concentrated on producing inexpensive exports.[4]

Fortunately, Nasser's successor, Anwar el-Sadat, began a program of reducing the role of government. After his tragic assassination in 1981, Hosni Mubarak accelerated market policies of privatization and foreign investment, and eliminated price and exchange controls. The local beer company is now in private hands. Yet even today, 36 percent of the labor force is employed by the government and the economy continues to suffer from over-regulation and controls.

Egypt has made substantial progress since 1990, when the Fraser Institute ranked it 88th in the institute's economic freedom report. Today it is ranked 52nd.[5] But clearly the Egyptian leaders have a long way to go to fulfill the Koran's promise of "wealth and children" as the "adornments of this present life." □

1. P. T. Bauer and B. S. Yamey, *The Economics of Underdeveloped Countries* (Cambridge: Cambridge University Press, 1957), p. 157.

2. Claire E. Francy, *Cairo: The Practical Guide*, 10th ed. (Cairo: American University in Cairo Press, 2001), p. 68. This guidebook is both shocking and indispensable for anyone moving to or studying this strange Arab nation. I placed exclamation points on practically every page.

3. Cited in W. W. Rostow, *Theorists of Economic Growth from David Hume to the Present* (New York: Oxford University Press, 1990), p. 423.

4. Doug Bandow, "The First World's Misbegotten Economic Legacy to the Third World," in James A. Dorn, Steve H. Hanke, and Alan A. Walters, *The Revolution in Development Economics* (Washington, D.C.: Cato Institute, 1998), pp. 217, 222–23.

5. James Gwartney and Robert Lawson, *Economic Freedom of the World, Annual Report 2001* (Vancouver, B.C.: Fraser Institute, 2001), pp. 9–10.

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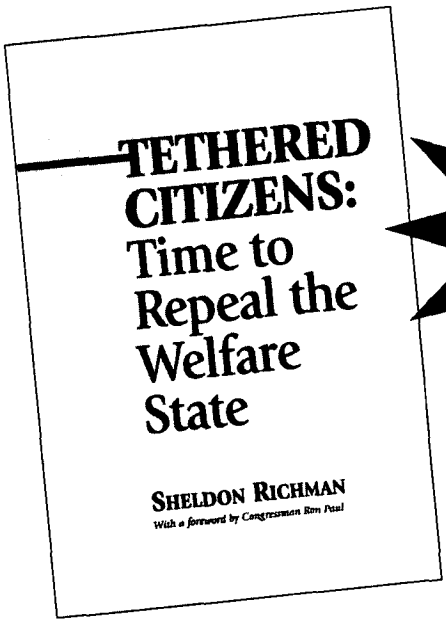

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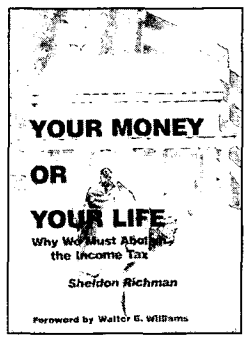

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BOOKS

Losing the Race: Self-Sabotage in Black America

by John H. McWhorter

Free Press • 2000 • 285 pages • $24.00

Reviewed by Ward Connerly

Sisters Venus and Serena Williams are two of the top women's tennis players in the world. Understandably, they avoid entering the same tournaments. At the major tournaments, however, they can't avoid it. At a recent tournament in Indian Wells, California, Venus and Serena were scheduled to face each other in the semifinals. Ten minutes before the match began, Venus withdrew. A doctor verified that tendonitis in her knee was acting up, but many observers suspected that their father, Richard Williams, had ordered her to withdraw. Giving voice to those suspicions, spectators at the finals booed Serena.

While getting booed is never easy, only an American black steeped in victimology would perceive racism in it. As Mr. Williams related to reporters after the match, "That was the worst act of prejudice that I have seen since they killed Martin Luther King. I don't think things have changed. I just think they're more camouflaged and covered up."

It is disturbing that Mr. Williams feels so comfortable crowing about the racism he claims permeates women's professional tennis. The sport has earned his daughters millions of dollars in prize money and endorsement deals; allowed them to leave Compton, California, and travel the world; and placed both Serena and Venus on the cover of *Sports Illustrated*. Despite the tremendous boon that the Williams sisters are to women's tennis, he would have us believe that what the fans and tennis officials really want to say is, "Go home, nigger."

As John McWhorter explains in his new book, *Losing the Race: Self-Sabotage in Black America*, posturing like that has come to largely define what it means to be black in America.

McWhorter, a linguistics professor at Berkeley, traces this posturing to three cultural diseases: victimology, separatism, and anti-intellectualism. He demonstrates that these strains infect the entire spectrum of "black" culture. From the black student pursuing "doctorial" studies to a black-student recruiter from Berkeley worried that black students who get into Berkeley without preferences "aren't concerned with nurturing an African-American presence," McWhorter introduces us to characters we recognize and shows how their words and actions reveal their belief in these cultural diseases.

Victimology is a lens that refracts present conditions through the prism of past injustices. This prism allows blacks to foster a sense of victimhood where it doesn't exist, thereby placing responsibility for solving existing problems on the perceived oppressor. It provides the fleeting emotional charge all underdogs enjoy, but prevents the underdog from actually succeeding. In chasing after the siren song of victimology, they drain the energy needed to achieve.

Victimology also conditions black people to believe that their perceived victim status exempts them from rules that govern other Americans. For example, McWhorter relates stories of black scholars unwilling to engage in the nuanced weighing of evidence that forms the heart of academic work. Despite not even attempting to marshal evidence in support of their conclusions, or to show why alternate explanations are less plausible, conference goers often laud them for "telling it like it is," or at least for having presented "a valid point of view."

Victimhood spawns separatism, the second disease McWhorter proffers as defining cultural blackness in modern America. Separatism feeds the third characteristic disease of contemporary social blackness, anti-intellectualism. McWhorter rehashes the well-known statistics about how poorly black students of all social backgrounds perform on various measures of educational achievement. Because this poor showing permeates all

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income levels, he looks for the explanation in black culture itself.

McWhorter rightly identifies cultural factors in black America as forming a core problem restraining black academic achievement. This separation of black identity from academic achievement stems not only from the historic denial by white America of equal educational opportunities, but also from the little white lie that affirmative-action preferences have perpetuated. These preferences, and their attendant swipes at merit-based academic standards, have allowed black Americans to believe they can succeed without the same effort we demand of other students. Thus what black students and white or Asian students consider their best effort often differs greatly.

By asserting that victimology, separatism, and anti-intellectualism define American cultural blackness, John McWhorter has entered a twilight zone. While America's devotion to the "one drop rule" makes him black, his willingness to question the shibboleths of cultural American blackness leads many to define him as "nonblack" or even "a traitor to his race." As he chronicles in his book, he has already felt the effects of these barbs.

Unfortunately, that testifies volumes about how accurate his portrait is. □

Ward Connerly is the president of the American Civil Rights Institute in Sacramento, California.

There's No Place Like Work

by Brian C. Robertson

Spence Publishing Company • 2000 • 206 pages • $24.95

Reviewed by Robert Batemarco

This book is about the choices American parents struggle to make regarding the balance between work and home life. The author, Brian C. Robertson, a research fellow at the New Economy Information Service, has found those choices, over the past four decades, reflective of an increasingly shallow materialism that shortchanges the children who are parents' prime responsibility. *There's No Place Like Work* is at once both an explanation of the origin of this state of affairs and an appeal to alter both our individual choices and the government policies that influence them.

As is so often the case with drastic changes in the way people order their priorities, new ideologies served as the catalyst. Specifically, Robertson points the finger at the transformation of feminism from a movement that sought to assist women in the exercise of their maternal responsibilities to one that demonizes women who opt to care for their own children in preference to earning money outside the home. One reason this ideology was so readily accepted, especially among the educated classes, was that it justified sacrificing the welfare of one's children for greater material comforts.

The change also proved congenial to the ambitions of the business and government sectors. The wholesale movement of mothers of young children into the paid labor force satisfied the desire of businesses to tap into a theretofore unavailable source of labor. The weakening of maternal bonds occasioned by employment outside the home provided another opportunity for the government to achieve one of its priorities—to expand its power.

Government had already usurped the role of fathers for a large segment of the population through various welfare programs, and now saw the chance to provide day care to preschoolers as an opening to assume one of the traditional roles of mothers. Noting that the family is one of the mediating institutions between the individual and the state, the author shows how dangerous these trends are. This is particularly so when the combination of ideology and interests makes the trend in that direction seem unstoppable.

Some would argue that if people choose to pursue the fruits of a further extension of the division of labor, who is Robertson to say them nay? However, the care provided by mothers is not like making pins, since *who* provides the care is of vital importance. The author marshals a formidable body of evidence to show why. His research faults day-

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care centers for their inability to provide stability and continuity, their regimentation (the better to prepare children for a socialist future?), and the higher rates of pathological behaviors among those raised in such settings. No wonder the author agrees with child psychologist John Bowlby that "a home must be very bad before it is bettered by a good institution."

While the argument presented here accords the prime responsibility for greater use of institutional day care to feminist ideology, the author does not dismiss the role of economic necessity. He cites polls showing over half of working mothers saying they would prefer to stay home with their children if it were economically feasible. The Dependent Care Tax Credit (available only to those with children in commercial day care) and the erosion of personal exemptions by inflation are but two of the ways government has increased the burden of mothers who do stay home with their children.

Not content with ending government subsidies to behavior that he sees as harmful in the long run, however, Robertson wants to use government to subsidize his preferred behaviors. This desire is manifest most clearly in his nostalgia for the "family wage" and other "protective" policies of the earlier part of the twentieth century. Robertson's seeming acceptance of "pro-family" coercion betrays a lack of understanding of the economics of wage determination. Indeed, economics is the Achilles' heel of the book. For example, the author erroneously states that higher consumption leads to greater economic growth.

Its lack of economic sophistication and its willingness to use state power to further a pro-family agenda undermine the important message of this book, namely, that children who don't receive care from their mothers often suffer harmful long-term consequences. □

Robert Batemarco is a vice president of a marketing research firm in New York City and teaches economics at Marymount College in Tarrytown, New York.

American Health Care

edited by Roger Feldman

Independent Institute • 2000 • 429 pages • $39.95

Reviewed by Vincent Cangello, M.D.

American Health Care is the work of 15 writers expert in different facets of the health-care delivery debate. I regard it as one of the best books on the problems in our health-care system since Paul Starr's 1982 prize winner, *The Social Transformation of American Medicine.*

The contributors have the advantage over Starr of the intervening years of experience gained from government-controlled and privately administered managed-care systems. We have learned much in the last 20 years about the waste and inefficiency generated by government attempts to manage and improve on the market for medicine and health care.

The failure of Hillary Clinton's Task Force and its proposals for a government takeover of most of our health-care system serves as a backdrop to the book. Editor Roger Feldman (professor of health insurance at the University of Minnesota) writes, "To discover why [Clinton's] health care reform failed, it's more enlightening to read the popular press than the academic journals. The press intuitively understood that the American People were not willing to entrust the government with running the health care system." At that point, I knew I was holding a book I had to read.

There are four main sections to the book. Part I addresses health insurance and finance. Ronald Hamowy's historical review of government-inspired health-care delivery efforts, starting with Bismarck's Germany in 1883, should be "must" reading for any student of health-care reform. Charlotte Twight's discussion of the 1996 Health Insurance Portability and Accountability Act made me aware that despite my efforts to stay abreast of the government's involvement in health care delivery, I failed to appreciate the scope of this legislation. It created a national medical information database and made it possible for the secretary of health and human services to

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rewrite rules concerning the privacy of individual medical records. "For the common good" will be a new force affecting the privacy of our medical histories. Gail Jensen's description of medical savings accounts is superb, and Clark Havighurst generates a breath of fresh air for those of us who still want to solve this national dilemma through private enterprise and freedom of contract.

Part II addresses health-care services: the regulation and governance of hospitals, pharmacies, and other health-care services. The six essays in this section shed light on a much-overlooked aspect of government health-care control. To name just two, Michael Morrisey exposes the dirty secret of Certificate of Need laws, which were expected to lower health-care costs but in fact "restricted the entry of new hospitals," thus limiting competition and raising prices. Richard Epstein writes about the unintended consequences of insurance regulations regarding community ratings and pre-existing conditions.

Part III deals with drugs and medications, with three essays that severely criticize the FDA. Paul Rubin, for example, argues that the FDA's ban on advertising the health benefits of aspirin "undoubtedly causes tens of thousands of needless deaths per year."

Part IV examines problems faced by physician and nonphysician providers as they perform their daily tasks; it covers such areas as the quality of care, malpractice liability, professional licensure requirements, and the unintended effect of health-care fees and price controls. One essay, by Shirley Svorny, takes on the "sacred cow" of physician licensing and argues for liberalization to allow nonphysicians to perform more health-care tasks. Another, by Patricia Danzon, calls for reform of medical malpractice laws.

This ambitious book should stimulate the long-overdue national debate that is necessary before sensible health-care reform can be achieved. □

Vincent Cangello, M.D., is the director of the Health Care Reform Educational Institute, Oakland, California (www.healthcarereform.com), and former professor of health and medical sciences at the University of California, Berkeley.

The Unwanted Gaze:
The Destruction of Privacy in America
by Jeffrey Rosen
Random House • 2000 • 274 pages • $24.95

Reviewed by Andrew Cohen

Privacy is not just the refuge of recluses or scoundrels. As Jeffrey Rosen shows, privacy serves vital personal and social functions. Unfortunately, changes in the law, cyberspace, and society have eroded a genuinely private sphere. In a detailed and engaging discussion, Rosen calls for developing more thoughtful ways of conceptualizing and protecting our privacy.

A law professor, Rosen helpfully discusses the relevant legal history. The scope of permissible searches has recently broadened in the service of the regulatory state. More recent investigations (such as those involving Bob Packwood, Clarence Thomas, and Bill Clinton) gratuitously exposed private papers and records of book purchases and video rentals to public scrutiny. Rosen proposes a narrowing of state surveillance of our affairs and letting informal social norms handle most cases of inappropriate conduct. By viewing the most egregious violations as tort invasions of privacy instead of sexual harassment, we could insulate third parties from undue liability and prevent unnecessary disclosure.

On the technological front, companies track our online activities and network servers monitor our e-mails and Web-browsing histories. Computer tracking is often a blessing: targeted advertising can draw our attention to products we might like, and Web sites can maintain customer profiles to tailor content to our tastes. Rosen nevertheless finds unsettling the prospect of invasive surveillance by businesses or governments. It seems misguided, however, to complain that employers may monitor employees' activities and stop them from using company resources to browse Internet pornography. We should use our own computers on our own time.

Admittedly, things are not always so simple. As Monica Lewinsky found out, personal computer files thought deleted can be recov-

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ered. Rosen claims that new technologies have thus decreased the control we have over self-disclosure, but he is not quite right here. Technology empowers us to be as private as we would like. Rosen himself applauds emerging technologies that promise enhanced anonymity and security in our Internet activities, such as encryption, self-deleting e-mails, or anonymous Web browsing. That most of us do not bother with such measures shows not decreased privacy but instead an increased willingness to waive our claims to privacy.

Rosen rightly stresses that privacy is not just an issue of what is protected by the state or from the state. He speaks of weakening informal norms of reticence and nondisclosure. While it is true that we have varying tolerances for disclosure, there must be some room for us to decide just how much to disclose and to whom. Rosen casts privacy as "the ability to protect ourselves from being judged out of context by controlling the conditions under which we reveal personal information to others." He is particularly concerned about shortening attention spans. Absent healthy privacy norms, he worries, people will misjudge us based on incomplete or misleading information.

By calling for creative new norms to define and protect privacy, Rosen avoids what F. A. Hayek calls the "constructivist fallacy" in which planners legislate single solutions to social problems. Hayek believed instead that dispersed knowledge and decentralized decisions are better equipped to preserve liberty and social stability. Rosen views the appropriate legal reforms as just one aspect of broader social reforms. As he insightfully notes, using state power to regulate norms of privacy may encourage exactly the sort of busybody temperament we hope to curtail. Persons can often negotiate among themselves what different and context-sensitive norms shall govern self-disclosure.

Privacy affords a crucial control over self-disclosure. Privacy gives grounds for people not to attend to, search for, or disclose their differences. Different-minded persons can then interact productively while avoiding unnecessary conflicts. More sharply, Rosen rightly notes that a genuinely private sphere is vital for fostering the sense of intimacy that underlies close friendships and personal development.

The Unwanted Gaze is an important discussion of the function and evolution of privacy norms. My only quibble is that Rosen defines privacy too narrowly. While it is true that people wish to be judged in context, he takes this interest as central to a conception of privacy. As the book itself shows, however, privacy has more to do with protecting and respecting nondisclosure in general. How others judge us is often beside the point. What seems central is that we simply do not care for others to know of certain details about our lives. Rosen helps us to see that by confining everyone to what is their proper business, the boundaries we define and protect with privacy allow for individuals to define and live lives of their own. □

Andrew Cohen (modus_ponens@hotmail.com) is assistant professor of philosophy at the University of Oklahoma.

Reaffirming Higher Education

by Jacob and Noam M. M. Neusner

Transaction • 2000 • 209 pages • $29.95

Reviewed by George C. Leef

Father and son authors Jacob and Noam Neusner here devote their considerable experience (especially Neusner *père*, who has held many teaching positions in American and European universities) and writing talents to a book observing the condition of higher education in the United States. They dislike much of what they see and contribute significantly to the growing awareness that higher ed has to a large extent become an "emperor wearing no clothes" phenomenon. Their call for a reaffirmation of higher education—as opposed to the robot-like accumulation of credits leading to degrees—is right on target. Descriptively, the book is splendid, but unfortunately it doesn't really diagnose the maladies. More on that point later.

The book is organized around a number of questions on which the authors voice their

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thoughts and occasionally vent their spleens. First, they ask, "Who should teach in a university?" They answer that many who now do, shouldn't. Too many professors are practitioners of what the authors call "hyperscholarship"—doctrinaire pedagogy that coldshoulders intellectual inquiry and rational criticism. They write, "Professors who espouse Marxism or Marxist causes as a substitute for scholarship are ridiculed by conservatives and moderates alike for circling the wagons when criticized—they do not argue in the name of ideology, choosing instead to couch their defense in the language of hyperscholarship. To their critics and many disinterested observers, their defense makes no sense. After all, what kind of theory can't be criticized in a university of all places?"

American colleges employ (usually with tenure, a practice the authors question) far too many of those foaming-at-the-mouth professors. They also employ far too many who treat teaching as a lark. The Neusners excoriate the teacher "who entertains and curries favor—generously granted by students at the slightest effort, since they would rather laugh than learn—and treats the classroom as a place not even for adventure, but mere fun." In contrast, the good professor is one "who can enter the mind of another person and bring to life the mind of that other person. A good teacher does the work by arguing, pressing, asking questions, challenging answers, asking more questions." Alas, there aren't many like that.

The second question the Neusners address is, "What should universities teach?" They contend that "the true purpose of the university is to demonstrate the universal uses of criticism, reason, rationality, and rigorous thought." And how do our modern universities fare in that regard? Not very well, the authors say, observing that "special pleading replaces learning, politically correct opinions substitute for free debate, proscribed attitudes substitute for free inquiry, and a reign of intellectual terror has descended on those who dare to deviate from accepted scholarship, particularly at the most expensive and liberal universities." Moreover, the curriculum has been debased to appeal to the great mass of students, thereby denying to serious students the learning experiences they would otherwise have had.

Third, the Neusners ask, "Who should go to college?" The education establishment promotes the notion that *everyone* ought to go to college, much as McDonald's wants everyone to drive in for a Big Mac, fries, and Coke. Our authors dissent: "The myth that all high school graduates must immediately set their sights on college has destroyed more than a few adolescents who could have saved themselves effort and their parents money by putting off college. It is a myth fed partially by the federal government, which subsidizes American colleges with billions of tuition loan guarantees, interest payments, and scholarships every year." Daring to speak a highly politically incorrect truth, they observe that "Not everyone can think abstractly, read responsively, or write intelligibly and correctly. . . . The few who can will benefit from higher education; the many who cannot will do better in other kinds of post-high-school programs."

Lastly, the authors ask what function universities have in the modern Internet era. Their answer: "What universities owe society is the protection of the heritage of learning that sustains the social order of civilization. That heritage of learning is preserved in books, but best transmitted in person." They're absolutely right.

Therefore, what? The Neusners have given us a *cri de coeur*. They want to see a renaissance in higher education, but provide little in the way of guidance as to how we might bring that about. Except for a brief mention of the deleterious effects of government student aid, they say nothing about the corrosive effects of government funding and the politicization it has wrought on campuses large and small. It would have been impossible for American higher education to get so far astray from the educational purpose the Neusners identify had it not been for the cascades of money available from Washington and state capitals. Nevertheless, if you are concerned about the miserable state of higher education, this book should be near the top of your reading list. □

George Leef is the book review editor of Ideas on Liberty.

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A Phone of Our Own: The Deaf Insurrection Against Ma Bell

by Harry G. Lang

Gallaudet University Press • 2000 • 242 pages • $29.95

Reviewed by Andrew P. Morriss

In *A Phone of Our Own*, Professor Harry Lang (National Technical Institute for the Deaf) provides an accessible, thoroughly researched history of the development of the TTY (teletype) system used by the hearing-impaired to communicate over telephone lines. Relying on interviews, surviving TTY transcripts of early conversations, and TTY-pioneers' papers, he provides a compelling business history of the TTY industry. Lang, who is hearing-impaired, also provides a fascinating glimpse into the politics of disability-rights activism.

The story of the development of TTY service for the deaf is largely that of a remarkable partnership among three deaf men. Robert H. Weitbrecht, an engineer in California, began using TTY equipment with his ham radio in the 1950s. James C. Marsters, a California orthodontist, and Andrew Saks, another engineer, met Weitbrecht and discovered a shared interest in making telecommunications available to the deaf. The three patched together a preliminary TTY system, using cast-off equipment and considerable ingenuity.

The TTY pioneers struggled to persuade phone companies to donate or sell them equipment and to persuade deaf individuals to accept the bulky TTY terminals. Lang's account makes clear that one of the most significant obstacles was AT&T's monopoly of the telephone network. The TTY pioneers were forced to use an acoustic coupler, for example, rather than a direct connection to the phone lines. Even though acoustic couplers caused several technical problems, AT&T's threat to cut off service to anyone attaching a modem directly to the phone lines ruled out the technologically superior solution.

Despite their engineering brilliance, the three were less successful as businessmen. Although the potential unserved market was large, they were unable to turn a profit. Why? Three factors stand out in Lang's account, although he does not adequately synthesize them. First, as the holder of a government-sanctioned monopoly, AT&T had a lack of interest that posed an almost insurmountable hurdle. Although Lang often expresses amazement at AT&T's position, the company's attitude will come as no surprise to those familiar with economic theory. As Sir John Hicks wrote, "the best of all monopoly profits is a quiet life." Monopolies stifle innovation; competition produces innovation.

Second, the TTY pioneers became ensnared in disputes within the deaf community between advocates of lip reading and sign language. One prominent group of deaf activists, for example, resisted supporting the TTY system because it did not fit their organizational goals of "promotion of lipreading, speech reading, and utilization of the residual hearing of the deaf." Third, and most distressingly, the men diverted their efforts into political lobbying because that was how they hoped to get AT&T to react and because they believed that telecommunication was a "right" that required state action.

Indeed, throughout the book libertarian readers will find themselves engaged in an intellectual game of "Where's Waldo?" In that successful children's book series, the aim is to spot the figure of Waldo in his distinctive red-and-white striped shirt amongst the distracting details of drawings of circuses, city streets, and the like. Similarly, readers familiar with the imperfections of government-sanctioned monopolies and centralized command-and-control regulatory regimes will find themselves spotting the quite visible hand of government behind the obstacles that frustrate the TTY pioneers, but which is obscured for the general reader by the mass of details of the daily struggle of the three pioneers.

Unfortunately the book also occasionally falls into the cult of the victim. For example, Lang notes that telephone pioneer Elisha Gray, who lost the patent rights to the telephone to Alexander Graham Bell, had developed a "Telautograph" for the 1893 World's Fair. This allowed messages handwritten at

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one end to be reproduced at the other end. The Telautograph failed despite its advantages for the deaf, Lang explains, because "hearing people controlled the telephone industry, and they had grown accustomed to the voice telephone." Is there any doubt that the voice telephone is immeasurably more useful than the "Telautograph" could ever have been? "Control" of the market played no role; demand for the better service did.

Lang has written a fascinating account of the TTY story. The book's weaknesses stem from its attempt to reshape a story of the evils of regulated monopolies into one about the need for government action to ensure "equitable" prices and services. The facts of the TTY story are sufficiently clear, however, to tell the monopoly story on their own, and Lang's clear prose makes the story of the men who struggled to establish the TTY system come alive. □

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IDEAS ON LIBERTY
AUGUST 2001

Unions Draft Temporary Workers

Under the doctrine that the Constitution is a "living document" that must constantly be reinterpreted to keep up with the times, the Supreme Court often ignores its plain text and imposes what it considers to be good results. Last August, in a consolidated decision involving two cases—*M.B. Sturgis, Inc.*, and *Jeffboat Division*—the National Labor Relations Board (NLRB) showed it wants to play the same game with respect to the National Labor Relations Act (NLRA).

One way that employers have learned to adapt efficiently to rapid technological and market changes is to contract with other firms to provide temporary employees to fill various jobs. "Supplier firms" specialize in recruiting, evaluating, training, and deploying workers where they are needed, and handling all the paperwork involved. "User firms" contract with supplier firms for the services of the employees. Often the supplier firm charges the user firm and then pays the workers. Sometimes a user firm will pay a flat per diem fee per worker to the supplier and pay the temporary workers directly. Legally both supplier and user firms are "employers" for at least some aspects of the employment relationship.

Unions have found it difficult to organize the employees of supplier firms. One reason is that there is no well-defined community of interest among such workers. They have different skills, levels of education, workplace experiences, and interests. It makes little sense for such workers to submit to a uniform collective-bargaining agreement, and it makes even less sense for a supplier employer to agree to any one-size-fits-all compensation scheme for its diverse employees.

Although temporary workers in user firms often work alongside permanent workers and do the same work, unions have hitherto found it impossible to organize them as employees of user firms. In the case of a union-free user firm (for example, M.B. Sturgis), a union could try to organize the permanent workers in the usual way, but the temporary workers could not legally be included in the same bargaining unit. The same is true in the case of an already-organized user firm (such as Jeffboat Division). Temporary workers could not be included in the same unit as the permanent employees. Section 9(b) of the NLRA specifies that the NLRB determines bargaining units on the basis of "whether the unit appropriate for collective bargaining shall be the employer unit, craft unit, plant unit or subdivision thereof." No units consisting of employees of more than one employer are permissible. For example, the assembly line workers at GM must be in a separate bargaining unit from the assembly line workers at Ford. There can be multi-employer bargaining with a union that has organized the workers of two or more employers, but only if all the employers involved agree to it.

Until this decision, it was well established that since temporary workers deployed to user

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firms by supplier firms legally have two employers, both employers had to agree to collective bargaining with a union before bargaining could take place. Multi-employer bargaining involving supplier and user firms is inherently more problematic from the employers' view than when the employers are competitors and the bargaining takes labor costs out of competition. The interests of supplier and user firms are not so easily aligned.

For example, if a union could organize the temporary workers at a user firm and obtain a collective-bargaining contract with the user, the supplier firm would be bound by the terms of the contract without having anything to say about it. The NLRA is supposed to facilitate agreement among employers and unions. It was never intended as a means to impose collective bargaining or its terms on third parties. In the words of J. Robert Brame, the lone dissenter in the NLRB decision and no longer a member of the Board, "An employer's bargaining obligation under Section 8(d) of the [NLRA] requires only that the employer meet and bargain in good faith with the union, not that it adopt wholesale the agreement that the union has negotiated with another employer."

Rules Changes

The majority decision of the Board changed the rules by an interpretive sleight of hand: Since temporary and permanent employees of a user firm have "a common" employer, that is equivalent to having "the same" employer. Therefore they can be in the same bargaining unit and the union can bargain for them all with both the user and the supplier firm whether that firm likes it or not. Thus temporary workers, even against their will, may be automatically included in existing bargaining units at already-unionized user firms, and temporary workers deployed to hitherto union-free firms must be included as voters in any certification elections at those firms.

John Sweeney, president of the AFL-CIO, hailed the decision, claiming that temporary workers had been "relegated to second class status and rights" by being excluded from collective bargaining. This is a bit duplicitous because in the *Sturgis* case the union wanted the temporary workers excluded from the bargaining unit in order to increase the probability it would win a certification election. The union realized that most workers in the temporary employment market are not interested in unions. In the *Jeffboat* case the union wanted to have the temporary workers added to the bargaining unit against their will simply because they became additional dues payers. So much for the myth of union solidarity.

Although the *Washington Post* proclaimed that "Temporary Workers Win Benefits Ruling," the truth is that some unions, not workers, won. Even this may be a Pyrrhic victory because unless this ruling is reversed supplier firms are going to avoid doing business with unionized and likely-to-become-unionized firms. In the private sector there are many securely union-free user firms to take their place. This will be yet another handicap imposed by the market on firms that unionize.

The most disturbing aspect of this decision is that it shows that the NLRB no longer feels bound by the provisions of the NLRA as they were originally understood by Congress. The only reason the majority gave for its willingness to reverse the long-standing rules on multi-employer bargaining was that the temporary employment market has grown. Since the market is bigger, the NLRA, a living document, had to be reinterpreted to keep up with the times. The NLRB has thus declared that it will not be limited to enforcing the statute as written. It has claimed the right to make up the law as it goes along. I suppose this is not too surprising because if the Supreme Court adhered to the Constitution as it was understood by those who wrote it, the NLRA would have been declared unconstitutional long ago. □

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